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REPORT AND RECOMMENDATIONS MADE BY THE PANEL OF COMMISSIONERS CONCERNING THE FIRST INSTALMENT OF "F2" CLAIMS

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Introduction

1. The Governing Council of the United Nations Compensation Commission (the "Commission") appointed the present Panel of Commissioners (the "Panel"), composed of Messrs. Francisco Orrego Vicuña (Chairman), Hans van Houtte and Jen Shek Voon, 1/ to review certain category "F" Government claims ("'F2' Claims") in accordance with relevant Security Council resolutions, Governing Council decisions and the Provisional Rules for Claims Procedure (the "Rules"). 2/

2. In this first report pursuant to article 38(e) of the Rules, the Panel sets forth its recommendations to the Governing Council concerning twenty claims (the "Claims") submitted by ministries or other Government entities of the Government of the Hashemite Kingdom of Jordan (collectively, the "Claimants") that seek compensation totalling approximately US$6,602,363,972, together with interest in the further amount of US$1,538,118,771, for alleged direct loss, damage or injury as a result of Iraq's 2 August 1990 invasion and occupation of Kuwait.

3. The Claimants are listed in table 1 below, together with the total amounts of compensation they claim. 3/ For the sole purpose of comparison, claimed amounts expressed in currencies other than United States dollars have been converted to United States dollars based on August 1990 mid-point rates of exchange as indicated in the United Nations Monthly Bulletin of Statistics. 4/

Table 1. Summary of amounts claimed in first instalment of "F2" claims

Ministry or Entity		Principal Claimed (Original currency)	US$ equivalent		Interest Claimed (Original currency)	US$ equivalent	Total Amount Claimed (in US$)
Ministry of Social Development	JD	8,683,432	13,196,705	JD	160,780	244,347	13,441,052
Ministry of Supply	JD	46,094,591	70,052,570	JD	10,193,759	15,492,035	85,544,605
Public Security Directorate	JD	57,590,275	87,523,214	JD	16,259,963	24,711,190	112,234,404
Armed Forces	JD	638,233,435	969,959,628	JD	217,946,948	331,226,365	1,301,185,993
Ministry of Tourism and Antiquities	JD	3,033,893	4,610,780	JD	811,187	1,232,807	5,843,587
Civil Aviation Authority	JD	12,101,711	18,391,658	JD	3,161,435	4,804,612	23,196,271
Civil Defence General Directorate	JD	4,081,202	6,202,435	JD	1,326,120	2,015,380	8,217,815
Electricity Authority	US$	155,800,000	155,800,000	US$	20,655,000	20,655,000	176,455,000
Ministry of Education	JD	120,379,300	182,947,264	JD	37,657,532	57,230,292	
	US$	73,000,000	73,000,000				313,177,556
Ministry of Energy and Mineral Resources	US$	399,285,944	399,285,944	US$	106,994,268	106,994,268	506,280,212
Ministry of Finance	JD	332,985,451	506,056,916	JD	84,241,755	128,026,983	
	US$	3,009,248,197	3,009,248,197	US$	590,601,813	590,601,813	
	DM	356,478	228,219	DM	89,119	57,054	
	Yen	4,641,956,598	32,182,173	Yen	672,846,052	4,664,767	
	CHF	98,520	76,254	CHF	33,496	25,926	4,271,168,303
Ministry of Health	JD	261,000	396,657	JD	53,500,275	81,307,409	192,267,917
	US$	110,563,852	110,563,852				
Ministry of Higher Education	JD	66,585,139	101,193,220	JD	10,091,425	15,336,512	116,529,733
Ministry of Interior	JD	47,125,647	71,619,524	JD	19,178,395	29,146,497	100,766,021
Ministry of Labor	JD	450,000	683,891	JD	114,750	174,392	858,283
Ministry of Planning	JD	174,288,000	264,875,380	JD	46,787,903	71,106,236	335,981,616
Ministry of Public Works and Housing	JD	67,774,812	103,001,234	JD	4,435,261	6,740,518	109,741,752
Greater Amman Municipality	JD	56,619,557	86,047,959	JD	9,625,320	14,628,146	100,676,105
Water Authority	JD	219,362,955	333,378,351	JD	20,404,459	31,009,816	364,388,167
Natural Resources Authority	JD	1,212,001	1,841,947	JD	451,655	686,406	2,528,353
Total	JD	1,856,862,401	2,821,979,334	JD	536,348,922	815,119,942	3,637,099,276
	US$	3,747,897,993	3,747,897,993	US$	718,251,081	718,251,081	4,466,149,074
	DM	356,478	228,219	DM	89,119	57,054	285,273
	yen	4,641,956,598	32,182,173	yen	672,846,052	4,664,767	36,846,940
	CHF	98,520	76,254	CHF	33,496	25,926	102,180
Grand Total			6,602,363,972			1,538,118,771	8,140,482,743

* Units of currency are abbreviated as follows: Deutsche mark ("DM"); Japanese yen ("yen"); Jordanian dinar ("JD"); Swiss franc ("CHF"); and United States dollar ("US$").

PART I

A. PROCEDURAL HISTORY

4. Pursuant to article 16 of the Rules, the Executive Secretary of the Commission reported to the Governing Council the significant factual and legal issues raised by the Claims in report nos. 16, 20, 23 and 24, dated 21 July 1996, 16 July 1997, 2 April 1998 and 8 July 1998, respectively. Those reports were circulated to all Governments and international organizations that filed claims before the Commission and to the Government of Iraq. Pursuant to paragraph 3 of article 16, a number of Governments, including Iraq, submitted their information and views on the reports.

5. In April 1998, after a competitive bidding process, the services of expert consultants in accounting and asset valuation were retained to assist the Panel in the review and analysis of the Claims. As a result of a preliminary review of the Claims, notifications pursuant to article 34 of the Rules ("article 34 notifications") were sent to each Claimant in June and July 1998 seeking additional information or documentation to assist the Panel in verifying and valuing the Claims. A technical mission from the Commission visited Jordan from 23-26 June 1998 to clarify questions relating to the article 34 notifications and arising from the review of the Claims. Documentation and information in response to the article 34 notifications were received in September and October 1998. A second technical mission from the Commission visited Jordan from 4-15 December 1998 to inspect physical assets and examine documentation too voluminous to dispatch to the Commission's headquarters in Geneva. Additional documents and information were requested during the December 1998 visit. The Claimants' responses to those requests were received in January and February 1999. In May 1999, further information and documentation were requested in connection with those Claims relating to the provision of emergency humanitarian relief to evacuees, as defined in paragraphs 29-31. Responses to that request were received in July 1999. All responses to requests for information and documentation have been considered by the Panel.

6. The Claims were submitted to the Panel at its first meeting on 21-23 September 1998. At that meeting the Panel issued procedural orders determining that each of the Claims was "unusually large or complex" within the meaning of article 38(d) of the Rules, and that it would complete its review of the Claims and report its recommendations to the Governing Council within twelve months of 23 September 1998. In reviewing and assessing the Claims, the Panel held regular meetings at the Commission's headquarters.

B. BACKGROUND TO THE CLAIMS

1. The influx of evacuees into Jordan in 1990 and 1991

7. The Claimants assert that approximately 865,000 non-Jordanian individuals who fled from Kuwait or Iraq during the period of Iraq's invasion and occupation of Kuwait ("evacuees") transited the Hashemite Kingdom of Jordan to return to their home countries. 5/

8. In response to this massive human influx into its territory, Jordan provided emergency humanitarian relief, including shelter, food, health care, security and transportation. A number of the Claims seek compensation for the costs of providing such relief to evacuees.

9. The "Report and Recommendations made by the Panel of Commissioners Concerning the First Instalment of Claims for Departure from Iraq or Kuwait (Category 'A' Claims)" 6/ (the "First 'A' Report") described the flight of the evacuees as follows:

> "During the early stages of the exodus from Kuwait and Iraq, border countries are reported to have applied strict controls and procedures, often resulting in departees having to wait for several days before being allowed to enter or depart from the country. Reports note, however, that the large numbers of people and the urgency of the situation made it very difficult for border authorities to apply the usual procedures for entry and departure to every person arriving in or departing from their respective countries when the number of fleeing persons was at its height.
>
> ...
>
> Having reached a point of first arrival, many OECD nationals and Kuwaiti citizens, as well as the more affluent Asian and Arab expatriate workers, were able to secure passage out of Saudi Arabia, Jordan and Iraq by air using their own or Government-provided funds. Because of the unanticipated excess demand, departees often had to wait for several days before they were able to leave. The vast majority of departees, however, arrived destitute with little or no means of returning to their respective countries. Food, shelter, clothing, and medical requirements were met in transit camps established for such purposes by the host Governments, by embassies or consulates, and/or by the international

organizations involved in co-ordinating the relief effort; as was overland transportation to air, sea and land evacuation points.

The main relief and evacuation activities were concentrated in Jordan. Smaller-scale relief operations also were undertaken in Turkey, Syria, Iran and Iraq. Perhaps half of the 865,000 third country nationals transiting Jordan were Egyptians; others were mostly expatriates from India, Bangladesh, Pakistan, Sri Lanka, the Philippines and Sudan." 7/

2. The influx of returnees into Jordan in 1990 and 1991

10. The Claimants further assert that approximately 300,000 holders of Jordanian passports who lived and worked in Kuwait, Iraq or other Persian Gulf States settled in Jordan as a direct result of Iraq's invasion and occupation of Kuwait. 8/ (Although the exact number of returnees is unclear, to place this figure in context, the Panel notes that estimates of the population of Jordan in 1990 range from approximately 3.2 million to 4.26 million people. 9/) The Claimants refer to these persons as "returnees" and state that a considerable number of them had been residing outside Jordan for more than 10 years and a large percentage of the younger ones had been born abroad. 10/ According to the Claimants, considerable sums were expended to provide relief to and "accommodate" these persons. A number of the Claims relate to the provision of services, including health, social, police, housing, electricity, water and sewerage and education services to them.

11. With respect to these persons, the First "A" Report observed that:

"The bulk of Jordanian/Palestinian departees left Kuwait and Iraq during the first two months of the crisis. The majority of those who left Kuwait in the first wave of departures did so with minimal outside assistance. People who departed later may have had access to IOM-overland transport facilities ... Approximately 20 per cent of the Jordanian/Palestinian community is reported to have been outside of Kuwait and Iraq when the invasion occurred. Some 317,000 Jordanians and Palestinians were still in Kuwait and Iraq by October 1990. The first wave of Palestinian and Jordanian departures from Kuwait was followed by a second wave which took place after March 1991. The Jordanian Government is reported to have provided relocation assistance" 11/

12. It is apparent that not all of these persons departed Iraq or Kuwait or decided not to return to Iraq or Kuwait during the period 2 August 1990 to 2 March 1991, which is the relevant jurisdictional period under paragraph

34(b) of Governing Council decision 7. 12/ However, the Panel is satisfied that the majority of them did so. For purposes of this report, the Panel will refer to those Jordanians and Palestinians who departed Iraq or Kuwait or who decided not to return to Iraq or Kuwait during the period 2 August 1990 to 2 March 1991 and who settled in Jordan as "returnees".

C. LEGAL FRAMEWORK

1. The Commission's function

13. The Secretary-General of the United Nations, in his report to the Security Council dated 2 May 1991, described the functions of the Commission as follows:

> "The Commission is not a court or an arbitral tribunal before which the parties appear; it is a political organ that performs an essentially fact-finding function of examining claims, verifying their validity, evaluating losses, assessing payments and resolving disputed claims." 13/

14. The Panel has applied relevant and established legal and valuation principles to the assessment, verification, valuation and resolution of the Claims as presented in this report.

15. Three tasks have been entrusted to the Panel in the present proceedings. First, the Panel must determine whether the various types of losses asserted fall within the jurisdiction of the Commission. Second, it must verify whether the asserted losses that are, in principle, compensable have in fact been incurred. Third, it must value those losses found to be compensable and to have been incurred.

16. In carrying out these tasks, the Panel has also given careful consideration to the additional information and views provided by Iraq and other Governments in response to the Executive Secretary's reports circulated pursuant to article 16 of the Rules.

2. Applicable law

17. Article 31 of the Rules provides that:

> "In considering the claims, Commissioners will apply Security Council resolution 687 (1991) and other relevant Security Council resolutions, the criteria established by the Governing Council for particular categories of claims, and any pertinent decisions of the Governing Council. In addition, where necessary, Commissioners shall apply other relevant rules of international law."

3. Liability of Iraq

18. In paragraph 16 of resolution 687 (1991) the Security Council reaffirms that Iraq is liable under international law for any direct loss, damage, or injury to foreign Governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait. 14/ Accordingly, the issue of Iraq's liability for losses falling within the Commission's jurisdiction is resolved. 15/

4. The directness requirement

19. Decision 7 of the Governing Council provides guidance as to the circumstances considered to be directly linked to Iraq's unlawful invasion and occupation of Kuwait. Paragraph 34 provides that direct loss, damage or injury to Governments will include any loss suffered as a result of:

> "(a) Military operations or threat of military action by either side during the period 2 August 1990 to 2 March 1991;
>
> (b) Departure of persons from or their inability to leave Iraq or Kuwait (or a decision not to return) during that period;
>
> (c) Actions by officials, employees or agents of the Government of Iraq or its controlled entities during that period in connection with the invasion or occupation;
>
> (d) The breakdown of civil order in Kuwait or Iraq during that period; or

(e) Hostage-taking or other illegal detention."

20. Governing Council decision 15 states that these five circumstances "are not intended to be exhaustive", and that "[t]here will be other situations where evidence can be produced showing claims are for direct loss, damage or injury as a result of Iraq's unlawful invasion and occupation of Kuwait." 16/ That same decision emphasizes that for any alleged loss, damage or injury to be compensable, "the causal link must be direct". 17/

5. Location of the loss

21. The losses that comprise the Claims are asserted to have been sustained in Jordan. Therefore, the scope of the Commission's competence over losses sustained outside Iraq or Kuwait requires examination. Security Council resolution 687 (1991) does not expressly indicate where a compensable direct loss should have occurred.

22. The Panel finds that there is no jurisdictional bar, in principle, to the award of compensation for losses sustained in Jordan. In that regard, the Panel notes that the "E2" Panel, in its second report, stated that "the place where the loss or damage was suffered by the claimant is not in itself determinative of the Commission's competence". 18/ The Panel further notes that the "E2" Panel, in its first report, observed that "losses suffered outside of Iraq or Kuwait, at a minimum, must also be specifically and closely related to the invasion and occupation Kuwait". 19/ Similarly, the First "C" Report stated that the Commission "has jurisdiction over a claim irrespective of where the loss occurred" but added that "where such losses occurred in Iraq or Kuwait, they can more easily be attributable to Iraqi actions, whereas a claim based on an incident occurring outside of Kuwait or Iraq needs to be more fully substantiated". 20/ During its review of the Claims, the Panel has given careful consideration to this last point.

23. The geographic location of Jordan also assumes importance in determining whether any of the losses asserted in the Claims was sustained as a result of "[m]ilitary operations or threat of military action" within the meaning of paragraph 34(a) of decision 7.

24. During the period from 18 January to 2 March 1991, Iraq launched 40 Scud missile attacks against Israel. Such attacks constitute military operations within the meaning of decision 7. 21/ To reach their targets in Israel, Iraqi Scud missiles traversed Jordanian airspace. Consequently, the Panel finds that from 18 January to 2 March 1991 military operations within the meaning of

decision 7 took place in Jordanian airspace. Further, the Panel finds that from 15 January 1991 (the expiry of the deadline set by Security Council resolution 678 (1990) for Iraqi forces to withdraw from Kuwait) until 2 March 1991 (the date the cease-fire resolution 22/ came into effect) a threat of military action in Jordanian airspace existed as a result of Iraqi threats against Israel.

25. The Panel notes that military operations did not take place within the land territory of Jordan. Nor was that land territory the subject of an Iraqi threat of military action, even though it was within the range of Iraq's military reach. 23/ The Panel notes, however, that this does not preclude an award of compensation in exceptional situations where military operations in Israel or Iraq could have had effects that spilled over and caused damage in the immediately adjacent land territory of Jordan. 24/

26. The Panel recognizes that disruption of shipping to and from Jordan's port of Aqaba and losses arising from shipping in the Red Sea were a result of the trade embargo and the inspection measures taken to enforce it. Further, the Panel finds that the waters of Jordan and the Red Sea were not the subject of military operations or the threat of military action. 25/

6. Mitigation

27. Paragraph 6 of Governing Council decision 9 provides that "[t]he total amount of compensable losses will be reduced to the extent that those losses could reasonably have been avoided". Paragraph 9 (IV) of Governing Council decision 15 confirms that the duty to mitigate applies to all Claims. In its review and assessment of the Claims, the Panel has been mindful of the duty of the Claimants to take reasonable measures to avoid, diminish or mitigate any direct loss, damage or injury resulting from Iraq's invasion and occupation of Kuwait.

7. Principles of compensability

28. As stated above, many of the Claims relate to Jordan's provision of humanitarian relief to evacuees and returnees. These Claims give rise to a number of common legal issues, which are identified below. In addressing these issues, the Panel has formulated and applied certain principles of compensability, which are set out in paragraphs 28-38, below:

(a) Emergency humanitarian relief to evacuees

29. The Panel finds that evacuees are persons who departed Iraq or Kuwait within the scope of paragraph 34(b) of Governing Council decision 7. Moreover, paragraph 36 thereof provides that compensation is available for, inter alia, "relief provided by Governments ... to others - for example to nationals, residents or employees or to others pursuant to contractual obligations - for losses covered by any of the criteria adopted by the Council". These examples are not exhaustive.

30. Jordan mounted a massive humanitarian relief operation to assist evacuees. The Panel finds that expenditures incurred by the Government of Jordan in respect of emergency humanitarian relief provided to evacuees during the period from 2 August 1990 to 2 March 1991 fall within the scope of paragraphs 34(b) and 36 of decision 7 and constitute losses arising as a direct result of Iraq's invasion and occupation of Kuwait, and are therefore, in principle, compensable.

31. The Panel recognizes, however, that there are limitations on the availability of compensation for relief provided to evacuees. One important limitation is the requirement that such expenditures be temporary and extraordinary in nature. 26/ Expenditures not satisfying this requirement do not directly result from Iraq's invasion and occupation of Kuwait.

(b) Humanitarian relief to returnees

32. As stated above, a number of Claimants seek compensation for expenditures incurred in the provision of humanitarian relief to returnees. The periods for which such compensation is claimed extend well beyond 1991, and in some cases to 1996.

33. The Panel finds that returnees are also persons who departed Iraq or Kuwait within the meaning of paragraph 34(b) of Governing Council decision 7 and that the effect of paragraphs 34 and 36 of that decision is to render compensable, in principle, expenditures incurred by the Claimants to provide humanitarian relief to returnees. As is the case with respect to evacuees, the Panel finds that such expenditures must be temporary and extraordinary in nature.

34. Accordingly, expenditures incurred for the provision of humanitarian relief to returnees constitute direct losses that are, in principle, compensable to the extent that they are temporary and extraordinary in nature. 27/

35. Unlike evacuees, who were repatriated to their home countries following relatively brief stays in Jordan, the returnees resettled in Jordan. Therefore, in addition to the period from 2 August 1990 to 2 March 1991, the Panel finds that for a six-month transition period thereafter, i.e., 2 March 1991 to 1 September 1991, expenditures incurred in the provision of humanitarian relief to returnees continued to be temporary and extraordinary in nature and are, in principle, compensable, representing costs that were a direct result of Iraq's invasion and occupation of Kuwait.

36. The Panel finds that this six-month transition period is a reasonable length of time to enable returnees to resettle and recommence a normal life after the tremendous upheaval that they sustained as a result of Iraq's invasion and occupation of Kuwait. The Panel finds that after this six-month transition period, however, the obligation to provide for returnees shifted fully to the Government of Jordan; Government expenditures ceased to be temporary and extraordinary in nature and were not losses directly resulting from Iraq's invasion and occupation of Kuwait.

37. With respect to that portion of capital expenditures which were incurred during the period 2 August 1990 to 1 September 1991, inclusive, and which provided humanitarian relief to returnees during that same period, the Panel deems that such portion is temporary and extraordinary in nature and is therefore compensable. Any portion of such capital expenditures which conferred benefits after 1 September 1991 is not compensable. 28/

c. Intervening acts or decisions

38. Several Claims raise the question of whether an act or decision of the Government of Jordan or of a third party breaks the chain of causation between an asserted loss and Iraq's invasion and occupation of Kuwait, so as to relieve Iraq of liability. The Panel finds that intervening acts or decisions, as a general rule, break the chain of causation and losses resulting therefrom are not compensable. 29/ Under generally accepted principles of law, however, an intervening act or decision that is a direct and foreseeable consequence of Iraq's invasion and occupation of Kuwait does not break the chain of causation.

D. EVIDENTIARY REQUIREMENTS

39. Under article 35(1) of the Rules, "[e]ach claimant is responsible for submitting documents and other evidence which demonstrate satisfactorily that a particular claim or group of claims is eligible for compensation pursuant to Security Council resolution 687 (1991)" and it is for the Panel to decide "the admissibility, relevance, materiality and weight of any documents and other evidence submitted".

40. With respect to category "F" claims, in particular, article 35(3) of the Rules requires that "such claims must be supported by documentary and other appropriate evidence sufficient to demonstrate the circumstances and amount of the claimed loss".

41. The evidentiary requirement of article 35(3) of the Rules was included in the category "F" claim form. 30/ The Governing Council had previously emphasized the mandatory nature of this requirement for Governments and international organizations in paragraph 37 of decision 7, which states that "[s]ince these [category "F"] claims will be for substantial amounts, they must be supported by documentary and other appropriate evidence".

42. In addition, the category "F" claim form advised each Claimant to include in its Statement of Claim the following particulars:

(a) The date, type and basis of the Commission's jurisdiction for each element of loss;

(b) The facts supporting the claim;

(c) The legal basis for each element of the claim;

(d) The amount of compensation sought, and an explanation of how this amount was arrived at." 31/

E. VERIFICATION AND VALUATION

1. General evidentiary guidelines

43. With the requirements of article 35 of the Rules in mind, the Panel developed, with the assistance of its expert consultants, evidentiary guidelines that it used to verify and value each Claim. While the Panel reviewed and considered all of the evidence submitted in respect of each Claim, the Panel first looked for primary documentation, such as contracts, audited accounts or invoices. In the absence of such documentation, or where it alone was insufficient to permit verification and valuation of a Claim, the Panel looked for secondary documentation, such as unaudited accounts, payroll records, photographs or independent witness statements. Where such secondary documentation was also insufficient to permit verification and valuation, the Panel considered other appropriate evidence. In all instances where a Claimant had not provided sufficient documentation or other appropriate evidence in support of the claim, requests for such documentation or evidence were made. 32/

44. At the outset of its review of each Claim, the Panel determined whether a Claim was, in principle, compensable. Where a particular Claim was found not to be compensable, the relevant evidence in the Claim was nevertheless examined to determine whether the Claim contained discrete elements that might be compensable.

45. With respect to those Claims or elements thereof that the Panel determined were, in principle, compensable, the Panel proceeded to determine the question of damage sustained by the Claimants, applying the evidentiary requirements of article 35 of the Rules, as described in paragraphs 39-41 above.

46. Under the guidance of the Panel, the expert consultants prepared and presented to the Panel individual reports for each Claim. These reports describe for the Panel the verification and valuation that was undertaken by the expert consultants in respect of each Claim and the results thereof.

2. Verification and valuation of claims for emergency humanitarian relief provided to evacuees

47. With respect to those Claims for expenditures incurred by the Claimants in the provision of emergency humanitarian relief to evacuees, the Panel

determined that, for all such claims, the evidence submitted by the Claimants demonstrated that expenditures were, in fact, incurred for such purposes. However, on the basis of the Claimants' evidence alone, the Panel found that the amount of many of these expenditures could not be fully calculated.

48. The Claimants demonstrated that due to the sheer number of evacuees entering Jordan and the urgent nature of the assistance given to them, expenditures relating to emergency humanitarian relief could not be documented in the usual manner. The Panel recognizes that the types of documentation that would be kept under normal circumstances, and which would typically be submitted as proof of the quantum of claims, likely were not generated given the extraordinary circumstances and the chaos inflicted upon Jordan as a result of the influx of hundreds of thousands of evacuees. The Panel accepts that at that time, the priority for the Government of Jordan was to aid the evacuees, not to maintain records.

49. The Panel is satisfied that significant losses were sustained by the Government of Jordan in its emergency humanitarian relief effort and accepts the Claimants' explanation for the lack of complete documentation in respect thereof. However, the Panel was unable to quantify such losses solely on the evidence provided by the Claimants. Consequently, the Panel assumed an investigative role of its own. Pursuant to article 36 of the Rules, the Panel requested and obtained additional information from international agencies involved in the provision of emergency humanitarian aid in Jordan during the period of Iraq's invasion and occupation of Kuwait. That additional information, together with the evidence submitted by the Claimants, was used by the Panel to quantify the net cost to Jordan of its emergency humanitarian relief effort. In calculating this cost, the Panel deducted from the total cost of the global relief effort made on behalf of the evacuees donations made to Jordan in cash or in kind and costs which the Panel could establish had been borne by other Governments or international agencies.

50. In the course of the Panel's investigation, over 200 documents relating to the evacuee relief effort in Jordan were reviewed. These documents include contemporaneous reports and statements, budgets, cost estimates and miscellaneous correspondence prepared by the United Nations, primarily the Office of the United Nations Disaster Relief Co-ordinator, as well as Governments and other international agencies, which were actively involved in the relief effort in Jordan at the time. Also included in the documents reviewed were reports and budgets from the United Nations High Commissioner for Refugees, the United Nations Children's Fund, the World Food Programme, the World Health Organization, the International Labour Organization, the

United Nations Relief and Works Agency for Palestine Refugees in the Near East and the Refugee Council. Information relating to the evacuee relief effort in Jordan was also extracted from other category "F" Government claims filed with the Commission.

51. From the data gathered, the Panel calculated both an estimate of the total amount spent in the global emergency humanitarian relief effort for evacuees and an estimate of the total donations made to Jordan in cash or in kind and relevant costs that had been borne by other Governments and/or international organizations. These estimates relate to the following five categories of relief expenditures:

(a) camp preparation;
(b) camp operations, including the provision of food;
(c) health services, excluding the cost of mobile medical stations;
(d) transportation and evacuation; and
(e) miscellaneous costs, including security and administrative services.

52. The Panel finds that the evidence as a whole demonstrates that Jordan incurred total expenditures in the amount of JD 46,243,582 (US$69,854,354) for the provision of emergency humanitarian relief to the evacuees under the five categories. This amount is net of donations made to Jordan and relevant costs borne by other Governments and organizations.

53. The Panel recommends allocation of this total net expenditure on a pro-rata basis among those of the Claimants claiming for humanitarian relief costs falling within the above five categories, which will be discussed more fully in the context of each relevant Claim. This allocation of compensation for emergency humanitarian relief to evacuees is in addition to individual findings and recommendations in respect of other claims made, as discussed within the context of each Claim.

54. The Panel emphasizes that it assumed the investigative role described above because it is satisfied that the Government of Jordan incurred significant expenditures with respect to the emergency humanitarian relief effort for evacuees and accepts the Claimants' explanation for the lack of complete documentation relating thereto. These unique circumstances are not applicable to those claims that are not concerned with emergency humanitarian relief. The Panel has applied the evidentiary guidelines described in paragraphs 43-46 above for those claims.

F. OTHER ISSUES

1. Currency exchange rate

55. A number of the Claimants have incurred losses or stated their claims in currencies other than United States dollars. As the Commission pays awards in United States dollars, the Panel is required to determine the appropriate rate of exchange. Panels have consistently determined that the currency exchange rate as at the date of loss is the most appropriate method of calculating the applicable exchange rate. 33/

56. The Panel notes that the date a particular loss occurred depends on the circumstances and characteristics of that loss. The claimed losses for which compensation is recommended have been incurred only in Jordanian dinars and United States dollars and the majority of those losses occurred regularly throughout Iraq's invasion and occupation of Kuwait. The Panel therefore determines that with the exception of claims for returnee-related expenditures, the Claim of the Ministry of Tourism and Antiquities, and claims for loss of tangible property, the average exchange rate over the period of Iraq's invasion and occupation of Kuwait, namely, JD 0.662:US$1, is the most appropriate exchange rate to be applied to convert amounts awarded in Jordanian dinars to United States dollars.

57. With respect to those Claims related to the provision of humanitarian relief to returnees, the Panel notes that the compensable period for such claims is 2 August 1990 to 1 September 1991, inclusive. Accordingly, the average exchange rate over this thirteen-month period, namely, JD 0.673:US$1, is the most appropriate exchange rate to be applied to convert amounts awarded in Jordanian dinars to United States dollars.

58. With respect to the Claim of the Ministry of Tourism and Antiquities, the Panel notes that the relevant compensable period is from 2 August 1990 to the end of 1991. Accordingly, the average exchange rate over this seventeen-month period, namely, JD 0.674:US$1, is the most appropriate exchange rate to be applied to convert amounts awarded in Jordanian dinars to United States dollars.

59. With respect to claims for loss of tangible property, the Panel determines that 2 August 1990, the date of the invasion is the date of loss and that the rate of JD 0.658:US$1 is the most appropriate rate to convert amounts awarded in Jordanian dinars to United States dollars.

60. In calculating the average rates of exchange, the Panel has used the exchange rates as reported in the United Nations Monthly Bulletin of Statistics. 34/

2. Interest

61. The Panel notes that each of the Claims includes a claim for compensatory simple interest at the rate of 8.5 per cent. The total amount of interest claimed is US$1,538,118,771. In decision 16 the Governing Council stated that "[i]nterest will be awarded from the date the loss occurred until the date of payment, at a rate sufficient to compensate successful claimants for the loss of use of the principal amount of the award". 35/ The decision added that "[t]he methods of calculation and of payment of interest will be considered by the Governing Council at the appropriate time" and that "[i]nterest will be paid after the principal amount of awards". 36/ Thus, the Panel need only set the date from which interest will run.

62. The Panel considers that because it is not possible to identify the precise date of the occurrence of each of the losses, the mid-point of the period in which the losses occurred is the most appropriate date of loss for the purpose of calculating interest. The Panel finds, therefore, that the mid-point dates of 16 November 1990 and 14 February 1991 are the dates from which interest shall be awarded in respect of compensable claims for evacuee and returnee-related losses, respectively. With respect to the Claim of the Ministry of Tourism and Antiquities, the mid-point is 16 April 1991.

3. Categorization

63. The category "F" claim form used by Governments to submit their claims classifies losses as follows: contract; business transaction or course of dealing; real property; other tangible property; bank accounts and securities; income-producing property; payment or relief to others; evacuation costs (of citizens or other nationals); public service expenditures; environmental damage; depletion of natural resources; and other. 37/ Classification of the Claims was initially made by the Claimants on the claim forms. In some instances, based on its review of the Claimants' assertions and the supporting evidence, the Panel has reclassified all or portions of the Claims.

64. The Panel turns now to its review and assessment of the Claims in the light of the legal framework set out above. The references to amounts asserted by the Claimants are to principal amounts only.

PART II

A. MINISTRY OF SOCIAL DEVELOPMENT (UNCC Claim No. 5000016)

65. The Ministry of Social Development describes its activities as being principally responsible for the planning, administration and operation of social development programmes for the people of Jordan, including the provision of vocational training to the mentally and physically disabled, delinquent youth, the impoverished, and the unemployed.

1. Payment or relief to others

(a) Facts and contentions

66. The Ministry of Social Development claims for the cost of providing returnees with the following humanitarian relief during the period from 2 August 1990 to 30 May 1995: emergency aid to 106 returnee "households" for food, transportation and pocket money; recurrent cash payments to 292 returnee "families" whose income was below the poverty line for necessities such as food, clothing, housing, education and health care; vocational training to 65 "households" addressing the needs of the unemployed and the mentally or physically disabled; physical therapy projects for 25 disabled persons; and care for 119 disabled persons, 533 youths, two elderly persons and nine children. The compensation sought for this relief totals JD 1,891,524. The Ministry contends that the returnees required these social services because they lost their income, other employment benefits and their property in Iraq or Kuwait as a consequence of fleeing Iraq or Kuwait.

(b) Analysis and valuation

67. The Panel finds that the expenditures incurred by the Ministry for humanitarian relief to returnees during the period 2 August 1990 to 1 September 1991, inclusive, constitute temporary and extraordinary expenses that are, in principle, compensable in accordance with the principles of compensability set out in paragraphs 28-38 above.

68. The evidence indicates, however, that most of the claimed costs were incurred after 1 September 1991 and are therefore not compensable. Working from detailed summary schedules provided by the Claimant, the Panel has calculated the costs incurred within the compensable period as follows:

(i) recurrent cash payments to returnee families - JD 3,210;

(ii) care for disabled returnees - JD 148,428;

(iii) care for returnee youth - JD 18,920;

(iv) care for elderly returnees - JD 1,152; and

(v) care for returnee children - JD 8,640.

(c) Recommendation

69. Based on its findings, the Panel recommends an award of JD 180,350 for payment or relief to others.

2. Real property

(a) Facts and contentions

70. The Ministry claims the sum of JD 1,676,000 for costs allegedly incurred during the period from 1 January 1991 to 31 December 1995 to construct six public facilities, including two juvenile centres and two rehabilitation centres, that served returnees. 38/

(b) Analysis and valuation

71. The evidence indicates that most of the alleged construction costs were incurred outside the compensable period in respect of returnees. In accordance with the principles of compensability set out in paragraphs 28-38 above, that portion of the costs is not compensable. With respect to those costs allegedly incurred within the compensable period, the Panel finds that there is insufficient evidence to permit the Panel to verify the claimed costs.

(c) Recommendation

72. Based on its findings, the Panel recommends no award of compensation for real property loss.

3. Public service expenditures

(a) Facts and contentions

73. The Ministry claims that during the period from 1 January 1991 to 31 December 1995 it incurred operating costs in the total amount of JD 5,115,906 for 29 rehabilitation and care centres for returnees.

(b) Analysis and valuation

74. The Panel finds that the period for which compensation is sought extends well beyond the compensable period for the provision of humanitarian relief to returnees. With respect to the costs allegedly incurred within that compensable period, they are based solely on estimates. Despite requests for documentation to support the estimates, none was submitted. As a result, the Panel was unable to verify this portion of the claim.

(c) Recommendation

75. Based on its findings, the Panel recommends no award of compensation for public service expenditures.

4. Summary of recommendations for the Ministry of Social Development

76. Based on the above, the Panel recommends the following amounts of compensation for the Ministry of Social Development:

(1)	Payment or relief to others:	JD 180,350
(2)	Real property:	nil
(3)	Public service expenditures:	nil
	Total	JD 180,350

B. MINISTRY OF SUPPLY (UNCC Claim No. 5000116)

77. The Ministry of Supply describes its activities as encompassing "a vast array of responsibilities related to the welfare of the Jordanian population, including infrastructure, roads, water, supply, telecommunications, municipal services and other public utility functions". The Ministry is also responsible for the costs of subsidizing food prices in order to ensure that basic foodstuffs are available to all Jordanians.

1. Contract

(a) Facts and contentions

78. The Ministry of Supply asserts that it incurred rental fees totalling JD 338,950 for 10 storage silos required to store additional food supplies to feed evacuees and returnees. 39/

79. The Ministry also claims JD 1,129,328 allegedly paid in demurrage costs as a result of delays experienced by 17 vessels transporting wheat, corn and chickens to Jordan that were blocked in the Gulf of Aqaba at various times during the period of Iraq's invasion and occupation of Kuwait. 40/

(b) Analysis and valuation

80. The Panel finds that expenditures for additional storage facilities during the period 2 August 1990 to 1 September 1991, inclusive, are compensable in accordance with the principles of compensability set out in paragraphs 28-38 above.

81. The evidence indicates, however, that some of the rental contracts commenced prior to Iraq's invasion and occupation of Kuwait. The Panel finds that those contracts would have been concluded irrespective of Iraq's invasion and occupation of Kuwait and that the costs thereof are not compensable. Based on its review of the evidence, and, in particular, the rental contracts, the Panel finds that JD 108,833 was incurred in additional rental costs for the period 2 August 1990 to 1 September 1991, inclusive. This amount is calculated based on the rental contracts that commenced and ran during that period. The Panel further finds that no expenditures for storage facilities subsequent to 1 September 1991 are compensable.

82. With respect to the claim for demurrage costs, the Panel finds that losses arising from shipping delays in the Gulf of Aqaba are not compensable as they were a consequence of the trade embargo and the measures taken to enforce it. 41/

(c) Recommendation

83. Based on its findings, the Panel recommends an award of compensation in the amount of JD 108,833 for the costs of additional storage facilities and no award for demurrage costs.

2. Real property

(a) Facts and contentions

84. The Ministry claims for the costs of constructing or enlarging food storage facilities and fuel stations in the amount of JD 23,194,940. The Ministry asserts that such expenditures were necessary because the returnees significantly increased Jordan's population and because Jordan historically imported 70 per cent of its food. 42/ Included in this figure is an amount of US$250,000 for the purchase of electric generators used in bakeries. That amount has been re-categorized as a claim for "Other tangible property".

(b) Analysis and valuation

85. The Panel finds that in accordance with the principles of compensability discussed in paragraphs 28-38 above, the portion of the costs for construction and enlargement of food storage facilities that were incurred within the compensable period for returnees and that provided humanitarian relief to returnees within that same period are, in principle, compensable. However, there is insufficient evidence to verify that any such costs were incurred within the compensable period.

(c) Recommendation

86. Based on its findings, the Panel recommends no award of compensation for real property loss.

3. Other tangible property

(a) Facts and contentions

87. As noted in paragraph 84 above, the Ministry seeks compensation in the amount of US$250,000 for the cost of electric generators used in bakeries.

(b) Analysis and valuation

88. The evidence indicates that the generators were purchased in February 1991 as part of the effort to provide food to returnees. Consequently, the Panel finds that such expenditures provided humanitarian relief to returnees. However, since the purchase of the generators also provided benefits accruing beyond the compensable period for returnee-related expenditures, the Panel awards compensation only for that portion of the value of the generators, representing the temporary and extraordinary benefit derived within the compensable period. 43/ The Panel finds that the compensable amount is JD 22,544.

(c) Recommendation

89. Based on its findings, the Panel recommends an award of compensation in the amount of JD 22,544 for other tangible property.

4. Payment or relief to others

(a) Facts and contentions

90. The Ministry states that it spent JD 1,366,964 in order to provide food without charge to hundreds of thousands of evacuees transiting Jordan. A substantial portion of these costs were incurred in producing and distributing bread. The Ministry also seeks JD 9,085 for the transportation costs of bakeries and JD 4,324 for the overtime wages of bakery workers. 44/

91. Prior to Iraq's invasion and occupation of Kuwait, the Ministry subsidized food prices "to ensure that basic foodstuffs were affordable to all its citizens". The Ministry of Supply asserts that as a result of the massive influx of returnees into Jordan and the negative effects of Iraq's invasion and occupation of Kuwait on the Jordanian economy and on the income of a large part of the population, it was required to increase its food subsidies. The Ministry alleges that in 1990 it paid JD 20,051,001 more than the average amount of subsidies in 1989 and 1991 and seeks compensation for that amount.

(b) Analysis and valuation

92. The Panel finds that the amounts expended for the provision and distribution of food for evacuees are temporary and extraordinary in nature. In accordance with the principles of compensability discussed in paragraphs 29-38 above, such expenditures are, in principle, compensable.

93. The Panel also finds that while the evidence provided by the Ministry is sufficient to demonstrate that expenditures were incurred for the provision and distribution of food to evacuees, it is insufficient to enable the Panel to quantify the amount expended with precision. As discussed in paragraph 49 above, the Panel has obtained additional information pursuant to article 36 of the Rules that enables it to quantify these expenditures within the category of emergency humanitarian relief defined as "camp operations".

94. With respect to the overtime wages component of the Claim, the Ministry acknowledges that it has not paid the bakery workers for the overtime work performed. Therefore, the Panel finds that no loss has been sustained.

95. The Panel finds that although increases in food subsidies to accommodate returnees constitute a form of humanitarian relief to returnees that is temporary and extraordinary in nature during the compensable period for returnees, the evidence does not demonstrate that an increase in food subsidies actually occurred. Therefore, the Panel is unable to verify a loss.

(c) Recommendation

96. Based on the totality of the evidence, including the additional information obtained pursuant to article 36 of the Rules, the Panel recommends an award of compensation in the amount of JD 1,115,307 for expenditures incurred to provide and distribute food to evacuees during the period of Iraq's invasion and occupation of Kuwait. This amount represents the Ministry of Supply's 2.41 per cent pro-rata share of the global amount determined to have been expended by the Government of Jordan on its emergency humanitarian relief effort in respect of evacuees.

97. Based on its findings, the Panel recommends no award of compensation in respect of overtime wages for bakery workers or in respect of increased food subsidies.

5. Summary of recommendations for the Ministry of Supply

98. Based on the above, the Panel recommends the following amounts of compensation for the Ministry of Supply:

(1)	Contract:	JD	108,833
(2)	Real property:		nil
(3)	Other tangible property:	JD	22,544
(4)	Payment or relief to others:	JD	1,115,307
	Total	JD	1,246,684

C. PUBLIC SECURITY DIRECTORATE (UNCC Claim No. 5000117)

99. The Public Security Directorate describes its activities as being responsible for "all those areas commonly understood as police work, including keeping public order, maintaining security and crime control, as well as protecting human life and property and enforcing traffic law".

1. Payment or relief to others

(a) Facts and contentions

100. The Public Security Directorate seeks to recover the costs it allegedly incurred to provide police protection to evacuees and to provide additional services throughout the country as a result of internal security problems created by the presence of vast numbers of evacuees. The Directorate asserts that most evacuees had to travel 700 kilometres from the Jordan-Iraq border to the port of Aqaba and that it established special offices in evacuee centres along that route and at other exit points. Compensation is claimed for the period from 2 August 1990 to 17 March 1991, as follows:

(i) JD 4,500,000 for salaries and equipment of 1,700 regular staff officers re-assigned for this purpose 45/;

(ii) JD 187,500 for aircraft and helicopter patrols searching for evacuees making their way into Jordan over open country;

(iii) JD 562,500 for extraordinary maintenance of vehicles patrolling desert roads;

(iv) JD 2,062,500 for additional fuel and oil to patrol, escort convoys and travel between camps (the Directorate asserts that 471 vehicles were utilized);

(v) JD 360,000 for food and water provided to officers on duty in the desert and working overtime;

(vi) JD 187,500 for additional paper and office materials used to communicate and co-ordinate between more than 200 sub-units and for operations at its centres;

(vii) JD 787,875 for "extra administrative expenses"; and

(viii) JD 2,300,000 for salaries, training and outfitting of approximately 1,800 officers to replace regular staff engaged in protecting evacuees. 46/

b) Analysis and valuation

101. With respect to the costs of salaries and equipment for the aforesaid 1,700 regular officers, the evidence does not demonstrate that they were temporary and extraordinary in nature. The Panel finds that these costs would have been incurred irrespective of Iraq's invasion and occupation of Kuwait. Consequently, they are not compensable.

102. With respect to the other components of the Claim listed in paragraph 100, the Panel finds that the expenditures were temporary and extraordinary in nature and were incurred during the compensable period. In accordance with the principles of compensability discussed in paragraphs 28-38 above, they are, in principle, compensable.

103. The Panel finds that while the evidence provided by the Claimant is sufficient to demonstrate that expenditures were incurred to provide additional security to protect evacuees, it is insufficient to enable the Panel to quantify the amount expended with precision. As discussed in paragraphs 28-38, the Panel has obtained additional information pursuant to article 36 of the Rules that enables it to quantify these expenditures within the category of emergency humanitarian relief defined as "miscellaneous costs, including security and administrative services".

(c) Recommendation

104. Based on its findings, the Panel recommends no award of compensation for the costs of salaries and equipment for the 1,700 officers.

105. Based on the totality of the evidence, including the additional information obtained pursuant to article 36 of the Rules, the Panel recommends an award of compensation in the amount of JD 4,725,134 in respect of the remaining amounts claimed as payment or relief to others. This amount represents the Public Security Directorate's 10.22 per cent pro-rata share of the global amount determined to have been expended by the Government of Jordan on its emergency humanitarian relief effort in respect of evacuees.

2. Real property

(a) Facts and contentions

106. The Directorate asserts that the resettlement of an estimated 400,000 returnees 47/ created an increased demand for police services. It contends that, as a result, it was required to build 16 additional police stations during the period 1991 to 1995, inclusive, at a cost of JD 6,400,000 and to equip them at a further cost of JD 3,971,200. 48/

(b) Analysis and valuation

107. The Panel finds that in accordance with the principles of compensability discussed in paragraphs 28-38 above, the portion of the costs of building and equipping the police stations that were incurred within the compensable period for returnees and that provided humanitarian relief to returnees within that same period are, in principle, compensable. However, there is insufficient evidence to verify that any such costs were incurred within the compensable period.

(c) Recommendation

108. Based on its findings, the Panel recommends no award of compensation for real property loss.

3. Public service expenditures

(a) Facts and contentions

109. The Directorate asserts that as a further consequence of the resettlement of the estimated 400,000 returnees, it was required to recruit and outfit 2,667 additional police officers over a five-year period commencing in mid-1990, at a cost of JD 36,271,200.

(b) Analysis and valuation

110. The evidence indicates that most of the claimed costs were incurred after 1 September 1991, that is, outside the compensable period in respect of returnee-related expenditures. In accordance with the principles of compensability discussed in paragraphs 28-38 above, such costs are not compensable. With respect to the costs allegedly incurred within the compensable period for returnees, the Panel notes that they are based on estimates. Despite requests, the Claimant has not provided documentary support for the estimates and, therefore, the Panel is unable to verify the claimed costs.

(c) Recommendation

111. Based on its findings, the Panel recommends no award of compensation for public service expenditures.

4. Summary of recommendations for the Public Security Directorate

112. Based on the above, the Panel recommends the following amounts of compensation for the Public Security Directorate:

(1)	Payment or relief to others:	JD 4,725,134
(2)	Real property:	nil
(3)	Public service expenditures:	nil
	Total	JD 4,725,134

D. ARMED FORCES (UNCC Claim No. 5000118)

113. The Armed Forces of Jordan include the Army, Navy and Air Force. They describe their activities as having responsibility for "maintaining military readiness and repelling a violation of Jordanian borders that occurs through either overt military action or covert operations by foreign powers".

1. Contract

(a) Shipment of purchased goods

(i) Facts and contentions

114. The Armed Forces seek compensation in the amount of JD 3,342,768 for costs and losses sustained because "[f]oreign manufacturers and shipping agents refused for various periods of [six] to 18 months to fill orders for spare parts and Western Governments delayed and refused to issue export licences to Jordan." The Claimant asserts that prior to the delays, it had already paid for the spare parts.

115. Included in the claimed amount is a claim for damage to shipped goods allegedly caused by mishandling during inspections that took place pursuant to the trade embargo.

(ii) Analysis and valuation

116. The Panel finds that the claimed costs and losses resulted from intervening acts or decisions of third parties, namely foreign Governments in delaying or refusing to grant export licences and by manufacturers and shipping agents in refusing to fill orders. Such acts or decisions break the chain of causation between the asserted loss and Iraq's invasion and occupation of Kuwait. In accordance with the principles of compensability discussed in paragraphs 28-38 above, such losses are not compensable.

117. The Panel further finds that the portion of the Claim alleging damage to goods during inspection procedures to enforce the United Nations trade embargo is not compensable pursuant to Governing Council decision 9.

(iii) Recommendation

118. Based on its findings, the Panel recommends no award of compensation for shipment of purchased goods.

(b) Termination of Mirage contracts

(i) Facts and contentions

119. The Armed Forces assert that they terminated a set of contracts to purchase Mirage fighter jets and associated weaponry because of the financial costs incurred by the Jordanian Government in providing humanitarian relief to evacuees and returnees, the downturn in the Jordanian economy due to Iraq's invasion and occupation of Kuwait and the cost of maintaining military readiness during the period of the invasion and occupation. The Claimant contends that due to these circumstances, it could not meet its contractual payment obligations. The Claimant further maintains that Iraq's invasion and occupation of Kuwait made the suppliers unwilling to continue with the contracts. Compensation was originally sought in the amount of JD 148,931,273 for the costs of termination, which amount includes the forfeited down payment, interest on the loan financing that payment and all progress payments made until the date of termination. In response to an article 34 notification dated 3 June 1998, the Claimant purported to increase the amount of this component of the Claim to JD 166,988,125.

(ii) Analysis and valuation

120. The Panel finds that the Claimant is not permitted to increase the amount of this component of the Claim by way of its response to an article 34 notification. Replies to enquiries by the Commission are a means by which the Claimant may offer additional evidence in support of amounts previously claimed to assist the Panel. However, in providing replies, the Claimant may not increase those claimed amounts or add new loss items to the Claim. Accordingly, review of this component of the Claim was based on the original figure of JD 148,931,273.

121. The Panel finds that the Claimant has failed to demonstrate that asserted costs were a direct result of Iraq's invasion and occupation of Kuwait.

122. The Panel further finds that the claimed costs to some extent also resulted from intervening acts or decisions of both the Government of Jordan and third-party suppliers, the former by terminating the contracts and the latter by their unwillingness to continue with the contracts. These acts or decisions break the chain of causation between the asserted loss and Iraq's invasion and occupation of Kuwait. In accordance with the principles of compensability discussed in paragraphs 28-38 above, the claimed costs are not compensable.

(iii) Recommendation

123. Based on its findings, the Panel recommends no award of compensation for termination of the Mirage contracts.

(c) Suspended modernization

(i) Facts and contentions

124. The Armed Forces assert that as a result of the invasion and occupation of Kuwait, they incurred losses totalling JD 4,402,000 due to the delay in systems improvement programmes undertaken by certain Governments and private foreign manufacturers. According to the Armed Forces, Iraq's "invasion of Kuwait and the subsequent hostage-taking of foreign, primarily Western, persons by the Iraqis triggered the interruption of the upgrade [programmes] and withdrawal of personnel by Western parties. Since [the Claimant] was on schedule with its payments, the only apparent reason for the Western parties' breach of the agreed [programme] lies in the changes and dangers brought about by the Iraqi aggression".

(ii) Analysis and valuation

125. The Panel finds that there is no direct causal link between the delay in systems improvement programmes and Iraq's invasion and occupation of Kuwait. As discussed in paragraph 25 above, the land territory of Jordan was not the subject of military operations or the threat of military action. Consequently, claims relating to the withdrawal of foreign personnel working in Jordan due to fear of "Iraqi aggression" are not compensable.

(iii) Recommendation

126. Based on its findings, the Panel recommends no award of compensation for suspended modernization.

(d) Cancellation of loans

(i) Facts and contentions

127. The Armed Forces allege that the financial strain imposed on Jordan by Iraq's invasion and occupation of Kuwait caused them to default on the repayment obligations under certain loans, whereupon the lead bank cancelled the loans. The Armed Forces assert that Iraq's actions made the lenders unwilling to continue with the loans. According to the Claimant, the loans financed various contracts. Compensation was originally sought in the amount of JD 39,986,041 for extra costs or losses incurred under those contracts upon the cancellation of the loans. In response to an article 34 notification dated 3 June 1998, the Claimant purported to increase the amount of this component of the Claim to JD 41,506,000.

(ii) Analysis and valuation

128. The Panel finds that the Claimant is not permitted to increase the amount of this component of the Claim by way of its response to the article 34 notification for the reason set out in paragraph 120 above. Accordingly, review of this component of the Claim was based on the original figure of JD 39,986,041.

129. The Panel finds that the claimed costs resulted from intervening acts or decisions of both the Government of Jordan and third party lenders, the former by defaulting on its repayment obligations and the latter by cancelling the loans. These acts or decisions break the chain of causation between the asserted loss and Iraq's invasion and occupation of Kuwait. In accordance with the principles of compensability discussed in paragraphs 28-38 above, the claimed costs are not compensable.

(iii) Recommendation

130. Based on its findings, the Panel recommends no award of compensation for the claimed cancellation of loans.

(e) Increased insurance premiums, and shipping and procurement costs

(i) Facts and contentions

131. The Air Force seeks compensation in the amount of JD 284,000 for increased insurance premiums over a two-year period commencing October 1990. It asserts that during this period its insurance premiums increased because of a heightened risk of attack on shipping.

132. The Procurement Division of the Armed Forces claims JD 649,707 as compensation for increased shipping costs and JD 73,687 for increased insurance costs. It offers the same reason as stated in the above paragraph for the increase in insurance premiums, and explains that shipping costs increased due to disruptions to shipping in the Persian Gulf region. The Claimant does not identify the period during which the alleged increased costs were incurred.

133. The Procurement Division of the Armed Forces also asserts that Iraq's invasion and occupation of Kuwait caused an increase in the procurement costs of supplies because of the disruption of trade in that region, delays in granting export licences, currency fluctuations and shortages of goods. The amount of JD 42,262,836 is sought. A specific period of loss is not identified. 49/

(ii) Analysis and valuation

134. With respect to the claims for increased insurance premiums, the Panel finds that increased costs of insurance for transportation of goods in areas subject to military operations or the threat of military action are, in principle, compensable. However, the evidence does not identify the areas through which the goods covered by the insurance were transported. Given that Aqaba is Jordan's only port, it is reasonable to expect that this port was the arrival or departure point for such goods. As discussed in paragraph 26 above, the port of Aqaba and the Red Sea were not the subject of military operations or the threat of military action. In the absence of evidence that goods were transported through compensable areas, the Panel is unable to verify the claimed costs.

135. With respect to the balance of the claims in this section, the Panel finds that the Claimant has failed to demonstrate that the asserted losses were a direct result of Iraq's invasion and occupation of Kuwait.

(iii) Recommendation

136. Based on its findings, the Panel recommends no award of compensation for increased insurance premiums and shipping and procurement costs.

2. Business transaction or course of dealing

(a) Additional spare parts

(i) Facts and contentions

137. The Division of Military Telecommunications asserts that as a result of Iraq's invasion and occupation of Kuwait, its activities increased well above normal levels and it suffered losses as a result of having to purchase additional spare parts at higher prices. The Division asserts that the increase in costs was due to increased insurance costs, devaluation of the Jordanian dinar and increased inflation in the Jordanian economy. The amount of JD 264,808 is sought as compensation for these increased costs.

(ii) Analysis and valuation

138. The Claimant has not specified the activities of the Division of Military Telecommunications for which the additional spare parts were required. In the absence of evidence establishing otherwise, the Panel can only conclude that the spare parts were for the purpose of maintaining Jordan's military readiness. The Armed Forces of Jordan did not form part of the Allied Coalition Forces. At its eighty-first meeting on 30 September 1998, the Governing Council decided that claims for military costs by States that were not members of the Allied Coalition Forces are not compensable. 50/ The Panel finds that costs incurred in maintaining military readiness constitute such military costs and are consequently not compensable.

(iii) Recommendation

139. Based on its findings, the Panel recommends no award of compensation for increased costs of additional spare parts.

(b) Loss of revenues from medical services

(i) Facts and contentions

140. The Medical Services Division of the Armed Forces asserts that it provides medical services to Jordanians and nationals of Persian Gulf States in order to earn revenues. The Division alleges that during the period of Iraq's invasion and occupation of Kuwait, it provided free medical services to evacuees and, as a result, could not utilize its medical services to generate revenues. The Division claims JD 2,564,461 for loss of revenues.

(ii) Analysis and valuation

141. The Panel finds that the evidence fails to demonstrate that a loss of revenues was sustained by the Division during the period of Iraq's invasion and occupation. Although the Claimant did not provide particulars of the revenues earned in 1989 and 1990, the revenues shown for 1991 were not significantly different from what could reasonably be projected given the revenues for 1987 and 1988. Accordingly, the Panel has been unable to verify that the Claimant has suffered a loss.

(iii) Recommendation

142. Based on its findings, the Panel recommends no award of compensation for loss of revenues.

3. Other tangible property

(a) Facts and contentions

143. The Air Force seeks compensation in the amount of JD 10,000,000 for the loss of two jet fighters during patrols over Jordanian airspace during the period of Iraq's invasion and occupation of Kuwait. The Air Force asserts that the threat of hostilities spilling over into Jordan increased the need for patrols and resulted in the loss of the two aircraft.

144. Further, the Air Force asserts that during the period of Iraq's invasion and occupation of Kuwait, it operated its air defences at full capacity, which resulted in the increased consumption of parts, consumables and "bench stock". Compensation was originally sought in the amount of US$2,900,000. However, in

response to an article 34 notification dated 3 June 1998, the Claimant purported to increase the amount of this component of the Claim to US$7,779,946. 51/

(b) Analysis and valuation

145. With respect to increased consumption of parts, consumables and "bench stock", the Panel finds that the Claimant cannot increase the amount claimed by way of its response to the article 34 notification, for the reason set out in paragraph 120 above. Accordingly, review of this component of the Claim was based on the original figure of US$2,900,000.

146. The Panel finds that the amounts claimed for the two jet fighters and for increased consumption of parts, consumables and "bench stock" constitute military costs. As discussed in paragraph 138 above, such costs are not compensable.

(c) Recommendation

147. Based on its findings, the Panel recommends no award of compensation for other tangible property.

4. Payment or relief to others

(a) Reimbursement of compensation payments

(i) Facts and contentions

148. The Armed Forces assert that they mobilized their troops in response to the threat of hostilities spilling over into Jordan as a result of Iraq's invasion and occupation of Kuwait. The Claimant maintains that during the mobilization, 19 officers died and 40 others suffered severe injuries. The Armed Forces seek reimbursement in the amount of JD 1,350,000 for compensation payments made to the wounded soldiers and to the families of the deceased.

(ii) Analysis and valuation

149. The Governing Council decided at its eighty-first meeting on 30 September 1998 52/ that members of non-Allied Coalition Armed Forces may receive compensation only for loss or injury as a consequence of their involvement in military operations resulting from Iraq's invasion of Kuwait if the three conditions set out in Governing Council decision 11 are met. 53/ Decision 11 provides that:

> "... members of the Allied Coalition Armed Forces are not eligible for compensation for loss or injury arising as a consequence of their involvement in Coalition military operations against Iraq, except if the following three conditions are met:
>
> (a) the compensation is awarded in accordance with the general criteria already adopted; and
>
> (b) they were prisoners of war as a consequence of their involvement in Coalition military operations against Iraq in response to its unlawful invasion and occupation of Kuwait; and
>
> (c) the loss or injury resulted from mistreatment in violation of international humanitarian law (including the Geneva Conventions of 1949)."

150. The Panel finds that the compensation payments made by the Jordanian Armed Forces to military personnel or their families do not satisfy the requirements of decision 11 and are therefore not compensable.

(iii) Recommendation

151. Based on its findings, the Panel recommends no award for the reimbursement of compensation payments made by the Armed Forces.

(b) Provision of medical services to evacuees

(i) Facts and contentions

152. The Medical Services Division of the Armed Forces of Jordan asserts that it made available mobile medical stations to provide free medical services to evacuees. The Division seeks the following amounts:

a. JD 346,000 for the personnel and operational costs of the mobile medical stations;

b. JD 2,576,630 for supplies consumed or lost in providing health care services to evacuees; and

c. JD 600,000 for damage to a mobile medical station caused by travel over 200 kilometres of unpaved roads to reach evacuees needing assistance. 54/

(ii) Analysis and valuation

153. The Panel finds that the personnel and operational costs were incurred to provide relief to evacuees during the period 2 August 1990 to 2 March 1991 and that such costs are temporary and extraordinary in nature. In accordance with the principles of compensability discussed in paragraphs 28-38 above, they are compensable.

154. The Panel finds that while the evidence submitted by the Claimant is sufficient to demonstrate that personnel and operational costs were incurred in the provision of medical care to evacuees, it is insufficient to enable the Panel to quantify the costs with precision. The Panel has, however, obtained additional information pursuant to article 36 of the Rules that enables it to quantify these costs within the category of emergency humanitarian relief defined as "health services, excluding the cost of mobile medical stations".

155. With respect to medical supplies consumed or lost, the Medical Services Division provided summaries of the subject supplies together with detailed supporting schedules. As discussed in paragraph 49 above, the Panel has also obtained additional information pursuant to article 36 of the Rules that enables the Panel to quantify this loss within the category of emergency humanitarian relief defined as "health services, excluding the cost of mobile health stations".

156. With respect to the mobile medical station, the evidence shows that it was damaged beyond repair. The Panel calculated the loss by determining the value of the station prior to sustaining the damage and deducting the salvage value. 55/ While the figure arrived at was greater than the amount claimed, the Claimant cannot recover more than the amount claimed.

(iii) Recommendation

157. Based on the totality of the evidence, including the additional information obtained pursuant to article 36 of the Rules, the Panel recommends an award of compensation for provision of medical services to evacuees as follows:

a. JD 2,797,593 for personnel and operational costs and for medical supplies. This amount represents the Armed Forces' 6.05 per cent pro-rata share of the global amount determined to have been expended by the Government of Jordan on its emergency humanitarian relief effort in respect of evacuees.

b. JD 600,000 for the total claimed loss of the mobile medical station.

5. Public service expenditures

(a) Facts and contentions

158. The Armed Forces seek compensation in the amount of JD 323,913,533 for the cost of maintaining adequate military readiness to defend any military incursions into Jordanian territory during the period of Iraq's invasion and occupation of Kuwait. This amount includes the extra costs of wages, patrols, manoeuvres, training, equipment, clothing, spare parts, maintenance and depreciation of equipment. In response to an article 34 notification dated 3 June 1998, the Claimant purported to increase the amount of this component of the Claim to JD 324,697,033.

(b) Analysis and valuation

159. The Panel finds that the Claimant cannot increase the amount claimed by way of its response to the article 34 notification for the reason set out in paragraph 120 above. Accordingly, review of this component of the Claim was based on the original figure of JD 323,913,533.

160. The Panel finds that amounts expended in maintaining Jordan's military readiness are military costs. As discussed in paragraph 138 above, claims for military costs by States that were not members of the Allied Coalition Forces are not compensable.

(c) Recommendation

161. Based on its findings, the Panel recommends no award of compensation for public service expenditures.

6. Other

(a) Training-related losses

(i) Facts and contentions

162. The Air Force claims that it sustained a loss of military pilot training revenues because, first, as a result of Iraq's invasion and occupation of Kuwait, Persian Gulf States could not afford to allocate pilot time or financial resources for training, and second, a difference of opinion between Persian Gulf States and Jordan over Iraq's invasion and occupation led to a cooling of relations between them. The Air Force also asserts that it lost training funds from the Government of the United States because, at the time of Iraq's invasion and occupation of Kuwait, the military resources of the United States were concentrated on Kuwait and the Persian Gulf region. Additionally, the Air Force claims that as a result of Iraq's invasion and occupation of Kuwait, it suffered losses occasioned by foreign Governments, first, terminating contracts under which Air Force personnel were to be trained, second, suspending training courses abroad for Air Force personnel, and third, returning Air Force personnel that were being trained abroad. Compensation was originally sought in the amount of JD 8,595,862 for these training-related losses. In response to an article 34 notification dated 3 June 1998, the Claimant purported to increase the amount of this component of the Claim to JD 43,673,034. The period for which these losses are claimed is not identified.

163. The Military Training Division of the Armed Forces asserts that each year since 1983 the United States sponsored a joint training programme, but that for the years 1991 to 1993, inclusive, sponsorship was suspended because the United States diverted financial resources to finance the military action against Iraq. The amount of JD 1,278,000 is sought as compensation for the loss of sponsorship for those three years.

164. The Military Training Division also seeks compensation in the amount of US$2,436,757 for a reduction in aid provided by the United States to train the Claimant's personnel at American facilities during the years 1991 to 1995, inclusive. 56/ The Division asserts that such reduction occurred because the United States diverted financial resources to finance the military action against Iraq.

165. The Military Training Division also seeks the amount of JD 9,733,540 as compensation for a reduction in revenues from training officers of Persian Gulf States for the period 1991 to 1995, inclusive. The Division asserts that revenues decreased because manpower and financial resources could not be allocated to training due to the high military alert created by the invasion and occupation of Kuwait, and because of the cooling of relations between Jordan and the Persian Gulf States. 57/

(ii) Analysis and valuation

166. The Panel finds that the Armed Forces cannot increase the amount of the Air Force claim for loss of pilot training revenues by way of a response to an article 34 notification for the reason set out in paragraph 120 above. Accordingly, review of this component of the Claim was based on the original figure of JD 8,595,862.

167. The Panel finds that all the claimed training-related losses are the result of intervening acts or decisions of third parties, namely foreign Governments, in reallocating their financial and other resources or in suspending sponsorship of training programmes. Such acts or decisions break the chain of causation between the asserted losses and Iraq's invasion and occupation of Kuwait. In accordance with the principles of compensability discussed in paragraphs 28-38 above, such losses are not compensable.

(iii) Recommendation

168. Based on its findings, the Panel recommends no award of compensation for training-related losses.

(b) Increased insurance costs

(i) Facts and contentions

169. The Supply Services Division of the Armed Forces asserts that airlines imposed a "war tax" on all international airline tickets to cover increased insurance premiums allegedly resulting from Iraq's invasion and occupation of Kuwait. The Division seeks compensation in the amount of JD 17,777 for the "war tax" it paid on airline tickets for Armed Forces personnel. 58/ The Claimant describes the purpose of the flights as follows:

> "The flights were for military personnel on official matters. Included within the official matters are flights by family members accompanying military personnel who will be stationed for more than one year outside of Jordan. The amount claimed for includes war tax on some such flights of family members relocating outside Jordan."

(ii) Analysis and valuation

170. The Panel finds that the extra cost of airline tickets due to increased insurance premiums are, in principle, compensable to the extent that they resulted from actual military operations or the threat of military action. As the Panel has already found in paragraph 24 above, Jordanian airspace was the subject of military operations or the threat of military action from 15 January until 2 March 1990. Although the evidence provided by the Claimant indicates that the flights at issue traversed Jordanian airspace, the evidence is not sufficient to enable the Panel to determine that any of the flights took place within the compensable period. In the absence of the such evidence, the Panel cannot find that the claimed costs are compensable.

(iii) Recommendation

171. Based on its findings, the Panel recommends no award of compensation for additional insurance premiums on airline tickets.

(c) Suspension of foreign aid or sponsorship

(i) Facts and contentions

172. The Air Force asserts that after Iraq's invasion and occupation of Kuwait, Saudi Arabia rescinded previously approved aid for the purchase of a new air defence system. The Claimant further asserts that the United States had approved aid for Jordan to purchase a key part of that defence system, but that after the invasion it refused to grant the required export licence for that system.

173. The Air Force contends that the above losses were a direct result of Iraq's invasion and occupation of Kuwait because donor Governments attempted to save money at the expense of established dealings with the Jordanian Armed Forces in order to finance the military action against Iraq. The export licence was allegedly refused on grounds of national security. Compensation was originally sought in the total amount of US$8,005,625 for the rescission of aid and denial of the export licence. In response to an article 34 notification dated 3 June 1999, the Claimant purported to increase the total amount of these components of the Claim to US$15,738,475.

174. The Military Training Division of the Armed Forces asserts that each year since 1983 the United States had sponsored military construction projects, but that for the years 1991 to 1993, inclusive, the United States suspended sponsorship in order to finance the military action against Iraq. The Division seeks compensation in the amount of JD 639,000 for the loss of sponsorship for those three years.

175. The Planning and Organization Division of the Armed Forces asserts that as a result of Iraq's invasion and occupation of Kuwait, the United States placed a "policy hold" on granting aid to the Jordanian Armed Forces. The Planning and Organization Division seeks JD 18,211,500 as compensation for losses related to the suspension of United States aid from 1 October 1990 to 1993, inclusive. 59/

(ii) Analysis and valuation

176. The Panel finds that the Claimant cannot increase the amount of the Air Force's claimed losses by way of its response to the article 34 notification for the reason set out in paragraph 120 above. Accordingly, review of this component of the Claim was based on the original figure of US$8,005,625.

177. The Panel finds that the claimed suspension of the foreign aid or sponsorship are the result of intervening acts or decisions of third parties, namely foreign Governments, that break the chain of causation between the asserted loss and Iraq's invasion and occupation of Kuwait. In accordance with the principles of compensability discussed in paragraphs 28-38 above, such losses are not compensable.

(iii) Recommendation

178. Based on its findings, the Panel recommends no award of compensation for suspension of foreign aid or sponsorship.

(d) Delay in repair and return of spare parts

(i) Facts and contentions

179. The Armed Forces allege that it sustained losses due to the delay of foreign companies to perform repairs and as a result of certain foreign Governments refusing or delaying the grant of export licences for spare parts sent abroad for repair. According to the Claimant, prior to Iraq's invasion and occupation of Kuwait, licences to export goods to Jordan were granted relatively quickly. However, once the invasion occurred it took four to 12 times longer to obtain such licences. The Claimant asserts that had Iraq not invaded Kuwait, such restrictions by foreign Governments would not have been directed at exports to Jordan. The Claimant originally sought compensation in the amount of JD 8,736,921. for losses allegedly resulting from the delays in the repair and return of spare parts. In response to an article 34 notification dated 3 June 1998, the Claimant purported to increase the amount of this component of the Claim by US$146,637. 60/

(ii) Analysis and valuation

180. The Panel finds that the Claimant is not permitted to increase the amount of this component of the Claim by way of its response to the article 34 notification for the reason set out in paragraph 120 above. Accordingly, review of this component of the Claim was based on the figure of JD 8,736,921.

181. The Panel finds that the losses attributed to delay in the return of the subject parts are the result of intervening acts or decisions of third parties, namely foreign Governments, in delaying the grant of export licences.

Such acts or decisions break the chain of causation between the asserted losses and Iraq's invasion and occupation of Kuwait. In accordance with the principles of compensability discussed in paragraphs 28-38 above, such losses are not compensable.

(iii) Recommendation

182. Based on its findings, the Panel recommends no award of compensation for delay in the repair and return of spare parts.

7. Summary of recommendations for the Armed Forces

183. Based on the above, the Panel recommends the following amounts of compensation for the Armed Forces:

(1)	Contract:	nil
(2)	Business transaction or course of dealing:	nil
(3)	Other tangible property:	nil
(4)	Payment or relief to others:	JD 3,397,593
(5)	Public service expenditures:	nil
(6)	Other:	nil
	Total	JD 3,397,593

E. MINISTRY OF TOURISM AND ANTIQUITIES (UNCC Claim No. 5000119)

184. The Ministry of Tourism and Antiquities describes its activities as including overseeing Government-run tourist sites and "promoting in various world markets tourist travel to and in Jordan".

1. Business transaction or course of dealing

(a) Facts and contentions

185. The Ministry of Tourism and Antiquities asserts that Iraq's invasion and occupation of Kuwait had a negative effect on the tourism industry in Jordan. It seeks compensation in the total amount of JD 87,075 for loss of revenues from entrance fees in 1991 at the sites of Petra, Jerash, Karak, the Museum of Folklore in Amman and the Museum of Madaba. Additional compensation in the amount of JD 706,818 is sought for the loss of revenues from entrance fees at Petra for the period September to December 1990. The total amount claimed is JD 793,893.

186. The Ministry also seeks JD 2,240,000 as compensation for additional advertising and promotion costs that were incurred in 1992 and 1993 to try to restore the number of tourists to pre-invasion levels.

(b) Analysis and valuation

187. The evidence demonstrates that there was a significant decline in the number of tourists visiting Government tourist sites in Jordan commencing in August 1990 and continuing throughout 1991. The Panel finds that such decline was precipitated by the massive influx of evacuees and returnees into Jordan, which overwhelmed Jordan's ability to receive tourists at ports of entry and hindered the ability of tourists to travel within Jordan. While the decision of tourists not to visit Jordan may be considered to be intervening acts or decisions by third parties, they are a direct and foreseeable consequence of Iraq's invasion and occupation of Kuwait and, therefore, do not break the chain of causation between the invasion and the asserted loss.

188. Consequently, the Panel finds that there is a direct causal link between the decline in the number of tourists visiting Government tourist sites in Jordan and Iraq's invasion and occupation of Kuwait. Therefore, the Ministry's asserted loss of revenues from tourist sites is, in principle, compensable.

189. The evidence indicates that the decline in revenues commenced in August 1990 and continued throughout 1991, with recovery commencing in 1992. In the light of this evidence and the seasonal nature of tourism, compensation is granted for the period 2 August 1990 to 31 December 1991, inclusive. The Panel finds that the normal operation of the subject Government-run tourist sites in Jordan was thereafter re-established.

190. With respect to the loss of revenues from entrance fees at Petra for 1990, the Panel notes that the claimed figure of JD 706,818 was incorrectly based on an entrance fee of JD 25 for foreign visitors and JD 1 for Jordanians. Those were the applicable fees from 21 August 1994, whereas the fees during the compensable period were JD 1 and 250 Jordanian fils for foreign and Jordanian visitors, respectively.

191. The Panel adopts the calculations of its expert consultants, who have reviewed the evidence relating to the decrease in the number of tourists and have interviewed the Ministry's representatives. The Panel finds that a loss of revenues from entrance fees in the amount of JD 31,838 was sustained in respect of Petra for the four-month period from 1 September to 31 December 1990 and a further loss of revenues from entrance fees in the amount of JD 84,275 was sustained in 1991 in respect of all of the subject tourist sites. Based on the type of revenues and the fixed nature of the associated costs, the Panel considers that the costs saved due to the decrease in the numbers of tourists would have been minimal.

192. With respect to the claim for increased advertising and promotion costs, the Panel finds that such losses are not compensable because there is no direct causal link with Iraq's invasion and occupation of Kuwait. Further, the costs were incurred in 1992 and 1993, a period too remote in time from the period of Iraq's invasion and occupation.

(c) Recommendation

193. Based on its findings, the Panel recommends an award of compensation in the amount of JD 116,113 for the loss of revenues.

2. Summary of recommendation for the Ministry of Tourism and Antiquities

194. Based on the above, the Panel recommends the following amount of compensation for the Ministry of Tourism and Antiquities:

(1)	Business transaction or course of dealing:	JD 116,113
	Total	JD 116,113

F. CIVIL AVIATION AUTHORITY (UNCC Claim No. 5000260)

195. The Civil Aviation Authority describes its activities as being responsible for the supervision, operation and maintenance of Jordan's civil airports, including negotiating and organizing bilateral air traffic agreements, supervising air safety, and installing and maintaining telecommunications and navigational equipment.

1. Real property

(a) Facts and contentions

196. The Authority seeks compensation for damage occasioned by tens of thousands of evacuees sheltering at the Queen Alia Airport in Amman. According to the Claimant, the average length of stay at the Airport for an evacuee was five days, as opposed to the pre-invasion average of six hours per passenger. The Authority asserts that as a result of prolonged use of the airport facilities by evacuees, sanitary units had to be refurbished at a cost of JD 130,860 and furniture had to be replaced and maintained at a cost of JD 150,000. The Authority claims a further amount of JD 781,000 for damage allegedly caused to 14,000 square metres of floor tiles by a large crane brought inside the airport to repair lamps and air-conditioning damaged by overuse by evacuees.

197. The Authority also asserts that heavy use of the airport by evacuees necessitated expenditures of JD 89,840 on repairs and maintenance of runways, taxiways, aprons and buildings.

(b) Analysis and valuation

198. With respect to the claims for the sanitary units and furniture, the Panel finds that there is sufficient evidence to demonstrate that the claimed losses were suffered as a result of the influx of evacuees and, as such, they are compensable. The Panel calculates the total amount of the loss to be JD 28,000.

199. The Panel finds that there is no evidence to demonstrate that the alleged losses relating to floor tiles and the repair and maintenance of runways, taxiways, aprons and buildings were a result of the influx of evacuees. As a result, they are not compensable.

(c) Recommendation

200. Based on its findings, the Panel recommends an award of compensation in the amount of JD 28,000 for real property loss.

2. Payment or relief to others

(a) Facts and contentions

201. The Authority seeks compensation in the amount of JD 214,300 for the costs of providing certain services, including security, waste disposal, cleaning, social services, water and electricity, to evacuees waiting at the Airport to be repatriated. 61/

(b) Analysis and valuation

202. The Panel finds that these costs were temporary and extraordinary in nature and were rendered during the period 2 August 1990 to 2 March 1991. In accordance with the principles of compensability discussed in paragraphs 28-38 above, they are compensable. Based on the evidence, the Panel calculates the total amount of the loss to be JD 27,636.

(c) Recommendation

203. Based on its findings, the Panel recommends an award of compensation in the amount of JD 27,636 for payment or relief to others.

3. Other

(a) Facts and contentions

204. The Authority asserts that the number of overflights and landings in Jordan decreased as a result of safety concerns on the part of air carriers following Iraq's invasion and occupation of Kuwait. The Authority seeks compensation in the amount of JD 10,476,311 for the loss of revenues from tariffs levied on air carriers overflying Jordan or landing at Queen Alia International Airport for the period 1990 to 1994, inclusive.

205. The Authority also seeks compensation in the amount of JD 209,000 for extra maintenance expenses attributed to increased usage and higher costs of

spare parts, and to increased insurance costs for their shipment, all of which, it asserts, was caused by Iraq's invasion and occupation of Kuwait. The period of time over which the claimed expenses were incurred is not stated.

206. The Authority further asserts that as a result of Iraq's invasion of Kuwait, certain countries that had agreed to have their air traffic personnel trained at the Queen Noor Civil Aviation Technical College could not afford to send students to Jordan, while certain other countries did not send their students, fearing for their safety. The Claimant seeks JD 50,400 as compensation for the revenues it would have normally expected to earn from 1990 to 1992, inclusive. 62/

(b) Analysis and valuation

207. The Panel has already found, in paragraph 24 above, that Jordanian airspace was the subject of military operations or the threat of military action during the period from 15 January until 2 March 1991 as a result of Iraq's threats or military operations against Israel. It follows that loss of revenues due to the decrease in the number of aircraft overflying or landing in Jordan during that period are, in principle, compensable because they resulted directly from such military operations or the threat of military action.

208. Based on an analysis of the revenues of the Authority, the Panel finds that the loss of revenues from overflights and landings during the period 15 January until 2 March 1991, net of saved expenses, amounts to JD 269,780.

209. With respect to that portion of the Claim relating to additional maintenance expenses, the Panel finds the Claimant has failed to demonstrate that the asserted losses were a direct result of Iraq's invasion and occupation of Kuwait.

210. With respect to the claim for loss of training revenues, the Panel finds no evidence of any legally enforceable commitments by the relevant foreign Governments to send trainees to Jordan. Rather, the Claimant had a mere expectation that it would receive training revenues; such an expectation is not compensable.

211. The Panel further finds that any loss of training revenues was the result of intervening acts or decisions of third parties, namely foreign countries, in not sending their trainees to Jordan. Such acts or decisions break the chain of causation between the asserted loss and Iraq's invasion and occupation of Kuwait. In accordance with the principles of compensability discussed in paragraphs 28-38 above, the claimed loss is not compensable.

(c) Recommendation

212. Based on its findings, the Panel recommends an award of compensation in the amount of JD 269,780 for loss of revenues from overflights and landings and no award of compensation for loss of training revenues.

4. Summary of recommendations for the Civil Aviation Authority

213. Based on the above, the Panel recommends the following amounts of compensation for the Civil Aviation Authority:

(1)	Real property:	JD 28,000
(2)	Payment or relief to others:	JD 27,636
(3)	Other:	JD 269,780
	Total	JD 325,416

G. CIVIL DEFENCE GENERAL DIRECTORATE (UNCC Claim No. 5000261)

214. The Civil Defence General Directorate describes its activities as encompassing "a vast array of responsibilities related to civil defence emergencies in Jordan, including fire, disaster and medical emergencies".

1. Real property

(a) Facts and Contentions

215. The Directorate asserts that in 1991 two new civil defence bases were constructed to ensure the provision of emergency services to the expanded population of Jordan resulting from the influx of returnees. The Directorate seeks JD 495,400 as the cost of constructing and equipping these bases. 63/

(b) Analysis and valuation

216. The Panel finds that the supporting documentation indicates that the bases were constructed after 1992, which is outside the compensable period for humanitarian relief to returnees. In accordance with the principles of compensability discussed in paragraphs 28-38 above, the costs of constructing and equipping the two bases are not compensable.

(c) Recommendation

217. Based on its findings, the Panel recommends no award of compensation for real property loss.

2. Other tangible property

(a) Facts and contentions

218. The Directorate seeks compensation in the amount of JD 675,000 for 15 ambulances withdrawn from emergency operation during 1990 to 1991, inclusive, but not replaced "due to a lack of public funds". 64/

(b) Analysis and valuation

219. The Panel finds that the Directorate has failed to demonstrate that the withdrawal of the ambulances was a direct result of Iraq's invasion and occupation of Kuwait. Accordingly, the claim is not compensable.

(c) Recommendation

220. Based on its findings, the Panel recommends no award of compensation for other tangible property loss.

3. Public service expenditures

(a) Facts and Contentions

221. The Directorate asserts that from August 1990 to April 1991, inclusive, it expended considerable resources on emergency measures that were required as a result of the influx of evacuees and the fear that "hostilities would spread to other areas of the Gulf".

222. The Directorate seeks the following compensation 65/:

a. JD 27,100 for "extra salaries and expenses" for 542 instructors in first aid and fire-fighting;

b. JD 159,900 for "extra salaries and expenses" for an unspecified number of professionals and reservists;

c. JD 150,000 for the salaries of an additional 250 full-time staff;

d. JD 50,000 for additional telecommunications costs;

e. JD 160,000 for the expenses of 156,128 volunteers;

f. JD 30,000 for additional equipment and uniforms for personnel;

g. JD 127,680 for fire protection and ambulance services for evacuee camps;

h. JD 50,000 for materials expended in rescue operations, e.g., at road accidents;

i. JD 259,522 for the purchase of a decontamination truck "to protect and rescue the civilian population, if a bomb with poisonous chemicals should be dropped in an area of the Gulf where Jordan would be [a]ffected";

j. JD 50,000 for the cost of gasoline, maintenance and repair of vehicles;

k. JD 40,000 for an information campaign to alert Jordanian citizens of the threats and dangers arising from Iraq's invasion of Kuwait and the responsive measures taken by the Government of Jordan; and

l. JD 300,000 for establishing and stocking first aid centres, evacuation centres, air raid shelters and early emergency warning centres.

223. The Directorate also seeks compensation for the costs of providing emergency services to the expanded population of Jordan resulting from the influx of returnees, as follows:

a. JD 711,600 for recurrent operational and maintenance costs relating to the two civil defence bases, referred to in paragraph 215 above, during the period 1992 to 1995, inclusive;

b. JD 500,000 for the purchase of civil defence vehicles and equipment, two fire engines and an ambulance;

c. JD 38,000 for equipment and uniforms for reservists; and

d. JD 257,000 for training courses, drills and remuneration for volunteers.

(b) Analysis and valuation

224. The Panel has already noted in paragraph 25 above that the land territory of Jordan was not the subject of military operations or a threat of military action. Therefore, the Panel finds that the costs relating to

measures taken by the Claimant in response thereto are not compensable. It follows that the costs claimed at paragraph 222 (i), (k) and (l) are not compensable. With respect to the other claims listed in paragraph 222, the Panel finds that they are compensable evacuee-related expenditures.

225. With respect to these evacuee-related expenditures, the Panel finds that while the documentary evidence submitted by the Directorate is sufficient to demonstrate that some expenditures were incurred, it is insufficient to enable the Panel to quantify the amount expended with precision. As discussed in paragraph 49 above, the Panel has obtained additional information pursuant to article 36 of the Rules that enables it to quantify these expenditures within the category of emergency humanitarian relief defined as "miscellaneous costs, including security and administration".

226. With respect to the costs of providing emergency services as described at paragraph 223, there is insufficient evidence to permit the Panel to verify this portion of the Claim.

(c) Recommendation

227. Based on the totality of the evidence, including the additional information obtained pursuant to article 36 of the Rules, the Panel recommends an award of compensation in the amount of JD 652,204 for compensable evacuee-related expenditures. This amount represents the Civil Defence Directorate's 1.41 per cent pro-rata share of the global amount determined to have been expended by the Government of Jordan on its emergency humanitarian relief effort.

4. Summary of recommendations for Civil Defence General Directorate

228. Based on the above, the Panel recommends the following amounts of compensation for the Civil Defence General Directorate:

(1)	Real property:	nil
(2)	Other tangible property:	nil
(3)	Public service expenditures:	JD 652,204
	Total	JD 652,204

H. ELECTRICITY AUTHORITY (UNCC Claim No. 5000262)

229. The Electricity Authority, an entity of the Jordanian Ministry of Energy and Mineral Resources, describes its activities as being responsible principally for the generation and transmission of electricity throughout Jordan.

1. Public service expenditures

(a) Facts and contentions

230. The Authority asserts that the influx of returnees created demand for an estimated additional 90 MW of electricity, necessitating the following expenditures:

(i) US$46,000,000 for the construction of three 30 MW gasoline turbines put into operation in 1994 and 1995;

(ii) US$35,000,000 for network improvements to facilitate transmission of the additional power and for connection of returnee households to the network; and

(iii) US$26,900,000 for interest accrued as a result of financing the capital expenditures.

231. The Authority also seeks compensation in the amounts of:

(i) US$37,400,000 for the cost of fuel needed to generate the additional 90 MW of power during the period 1992 to 1997, inclusive; and

(ii) US$10,500,000 for operation and maintenance costs relating to the three newly constructed turbines.

(b) Analysis and valuation

232. The Panel finds that the documentary evidence indicates that construction of the turbines and the improvements to the networks took place outside the compensable period for humanitarian relief to returnees. Consequently, in accordance with the principles of compensability discussed in

paragraphs 28-38 above, the claimed construction costs and network improvements are not compensable. It follows that interest accrued as a result of the financing of these costs is also not compensable.

233. With respect to the claims for fuel and operation and maintenance costs, the evidence indicates that these claimed costs were incurred after 1 September 1991 and are therefore outside of the compensable period for returnees. Therefore, these claims are not compensable.

(c) Recommendation

234. Based on its findings, the Panel recommends no award of compensation for public service expenditures.

2. Summary of recommendation for the Electricity Authority

235. Based on the above, the Panel recommends the following amount of compensation for the Electricity Authority:

(1)	Public service expenditures:	nil
	Total	nil

I. MINISTRY OF EDUCATION (UNCC Claim No. 5000263)

236. The Ministry of Education describes its activities as providing primary and secondary education services to the residents of Jordan.

1. Public service expenditures

(a) Facts and contentions

237. The Ministry of Education seeks compensation in the amount of JD 5,800,000 for an alleged increase in capital expenditures during the period 1990 to 1995, inclusive, on sanitary facilities, school desks, blackboards and other equipment, which the Ministry asserts was necessitated by the influx of an estimated 100,000 primary and secondary school returnee students to Jordan.

238. The Ministry seeks compensation in the amount of JD 110,757,450 for increased operating expenditures during the period 1990 to 1995, inclusive, relating to rent, salaries, books, stationery, fuel, electricity, telephone, maintenance and administration which it asserts were also necessitated by the influx of returnee students.

239. The Ministry also seeks compensation in the amount of JD 3,821,850 for the cost of teacher training programmes from 1992 to 1996, inclusive. It asserts that the programmes were required because of the differences in educational background and other problems faced by returnee pupils and because Iraq's invasion and occupation of Kuwait caused the diversion of resources allocated for teacher training in Jordan.

240. The Ministry further seeks compensation for interruption to its education reform programme. The Ministry claims that all of its financial and human resources, including US$73,000,000 from an international development loan intended for its reform programme, were used "to cope with the disruptions of school operations when over 100,000 [returnee] pupils unexpectedly entered the public school system". The full amount of the loan is sought as compensation.

(b) Analysis and valuation

241. With respect to the alleged increase in expenditures on sanitary facilities, school desks and other equipment, the Panel finds that in accordance with the principles of compensability discussed in paragraphs 28-38

above, any portion of such expenditures incurred within the compensable period for returnees and that provided humanitarian relief to returnees within that same period are, in principle, compensable. However, there is insufficient evidence to verify that any such expenditures were incurred within the compensable period.

242. With respect to the increased operating expenses, the Panel finds that to the extent that the alleged expenses were incurred within the compensable period, they are, in principle, compensable. However, the evidence indicates that a significant portion of the amount claimed was incurred after 1 September 1991, which is outside the compensable period for returnees.

243. With respect to the portion of the Claim for increased operating expenses falling within the compensable period, the evidence is insufficient to enable the Panel to verify the amounts expended. Additionally, the evidence fails to establish a correlation between the influx of returnees and the increased expenses. Consequently, the Panel finds that this portion of the Claim is not compensable.

244. The claim concerning teacher training programmes relates to expenditures incurred from 1992 to 1996, which is outside the compensable period for returnee-related losses. Therefore, the Panel finds that the costs of the teacher training programmes are not compensable.

245. The Panel also finds that the reallocation of educational reform funds was an intervening act or decision by the Ministry that breaks the chain of causation between the asserted loss and Iraq's invasion and occupation of Kuwait. In accordance with the principles of compensability discussed in paragraphs 28-38 above, the claim for the development loan amount is not compensable.

(c) Recommendation

246. Based on its findings, the Panel recommends no award of compensation for public service expenditures.

2. Summary of recommendation for the Ministry of Education

247. Based on the above, the Panel recommends the following amount of compensation for the Ministry of Education:

(1)	Public service expenditures:	nil
	Total	nil

J. MINISTRY OF ENERGY AND MINERAL RESOURCES

(UNCC Claim No. 5000264)

248. The Ministry of Energy and Mineral Resources describes its activities as being responsible for providing adequate supplies of energy at the lowest possible cost. It oversees the production and distribution of electricity, oil, petroleum, natural oil and gasoline through several Government agencies, and it monitors the environment for radioactive materials through the Nuclear Energy Directorate.

1. Contract

(a) Facts and contentions

249. The Trans-Arabian Pipeline Company ("Tapline"), a Saudi Arabian company, contracted with the Ministry of Energy and Mineral Resources to deliver oil via pipeline from Saudi Arabia to Jordan. The Ministry alleges that Iraq's invasion and occupation of Kuwait caused Tapline to shut down the pipeline and to suspend oil deliveries in September 1990. Tapline continued to charge the Claimant for the operating expenses of the pipeline. The Ministry states that it is contractually obligated to pay those expenses, although it has not yet done so. It seeks US$63,532,000 as compensation for the operating charges accrued from September 1990 to December 1995, inclusive.

(b) Analysis and valuation

250. In view of the Claimant's admission that the charges for the operating expenses of the pipeline have not been paid, the Panel finds that no loss has been sustained.

(c) Recommendation

251. Based on its findings, the Panel recommends no award of compensation for contract losses.

2. Other tangible property

(a) Facts and contentions

252. The Ministry asserts that subsequent to Iraq's invasion and occupation of Kuwait, the delivery of oil from Iraq and Kuwait by tanker trucks ceased and it was necessary to purchase a shipping tanker to transport oil from sources other than Iraq or Kuwait. The Ministry seeks to recover the purchase cost of the tanker in the amount of US$7,675,000. 66/

(b) Analysis and valuation

253. The Panel finds that Jordan purchased the shipping tanker because restrictions on the importation of oil from Iraq and Kuwait were imposed by the United Nations trade embargo. Pursuant to Governing Council decision 9, losses arising solely from the economic embargo will not be accepted as the basis for compensation. Accordingly, the Panel finds that the purchase cost of the oil tanker is not compensable.

(c) Recommendation

254. Based on its findings, the Panel recommends no award of compensation for other tangible property.

3. Public service expenditures

(a) Facts and contentions

255. The Ministry maintains that during Iraq's invasion and occupation of Kuwait, Iraq fired several missiles at an Israeli nuclear reactor situated close to Jordanian territory. In response to fears of a possible release of radioactive material, the Ministry activated its nuclear and radiological emergency plan. In this regard, the Ministry seeks to recover US$261,500 allegedly expended on overtime wages for employees monitoring the situation, costs of chartering a helicopter and crew to conduct checks for radiation, and costs of environmental sampling in the area bordering the reactor.

256. The Ministry also asserts that because of the missile attacks on the Israeli reactor, a project to establish the Jordanian Centre for Nuclear

Research and Training was suspended for one year, for which compensation is claimed in the total amount of US$238,400.

(b) Analysis and valuation

257. The Panel finds that expenses relating to activation of the nuclear and radiological emergency plan are, in principle, compensable as reasonable precautionary and preventative measures to protect against a potential spillover effect from Iraq's military operations against the Israeli nuclear reactor. However, the evidence is insufficient to enable the Panel to verify the claim.

258. The Panel further finds that the Claimant has failed to demonstrate that suspension of the project to establish the Centre for Nuclear Research and Training was a direct result of Iraq's invasion and occupation of Kuwait. Consequently, losses arising from such suspension are not compensable.

(c) Recommendation

259. Based on the above, the Panel recommends no award of compensation for public service expenditures.

4. Other

(a) Facts and contentions

260. The Ministry asserts that since 1986 it had been the recipient of "annual oil grants" from Kuwait, which it contends were suspended immediately after Iraq's invasion of Kuwait and were never resumed. The amount of US$295,270,115 is claimed as the value of the lost grants for the period of August 1990 to December 1994, inclusive.

261. The Ministry also asserts that as a result of and during Iraq's invasion and occupation of Kuwait it paid higher prices for oil and oil products. In this respect, it seeks compensation in the amount of US$32,308,929. 67/

(b) Analysis and valuation

262. With respect to the Kuwaiti oil grants, there is no evidence of a legally enforceable commitment by Kuwait to supply oil to Jordan. Rather, the

Claimant had a mere expectation that it would continue to receive oil grants; such expectation is not compensable.

263. The Panel further finds that Kuwait was unable to deliver oil or oil products during the period of Iraq's invasion and occupation. Upon liberation, the decision of the Government of Kuwait not to resume the grants constitutes an intervening act or decision of a third party that breaks the chain of causation between the asserted loss and Iraq's invasion and occupation of Kuwait. In accordance with the principles of compensability discussed in paragraphs 28-38 above, the loss of the grants is not compensable.

264. With respect to the balance of this component of the Claim, the Panel finds that increases in the price of oil and oil products are attributable to market forces and oil industry practices rather than to Iraq's invasion and occupation of Kuwait. Consequently, the claimed amount is not compensable.

(c) Recommendation

265. Based on its findings, the Panel recommends no award of compensation for loss of oil grants and the increased price of oil.

5. Summary of recommendations for the Ministry of Energy and Mineral Resources

266. Based on the above, the Panel recommends the following amounts of compensation for the Ministry of Energy and Mineral Resources:

(1)	Contract:	nil
(2)	Other tangible property:	nil
(3)	Public service expenditures:	nil
(4)	Other:	nil
	Total	nil

K. MINISTRY OF FINANCE (UNCC Claim No. 5000265)

267. The Ministry of Finance describes its activities as being principally responsible for the Government's budgetary, monetary and fiscal policies.

1. Payment or relief to others

(a) Facts and contentions

268. The Ministry of Finance alleges that it waived collection of customs duties in the estimated amount of JD 308,456,036 relating to the importation of 14,252 motor vehicles belonging to returnees, and similarly waived duties on the furniture of 48,998 returnee families in the estimated amount of JD 24,499,000. The Ministry explains that the returnees, due to their unplanned return to Jordan, could not afford to pay the duties. The Ministry asserts that it considered the waiver as a form of relief to the returnees.

(b) Analysis and valuation

269. The Panel finds that the waiver constitutes an intervening act or decision by the Ministry to forego revenues that breaks the causal link between the alleged loss and Iraq's invasion and occupation of Kuwait. In accordance with the principles of compensability discussed in paragraphs 28-38 above, the loss of customs duties is not compensable.

(c) Recommendation

270. Based on its findings, the Panel recommends no award of compensation for payment or relief to others.

2. Other

(a) Facts and contentions

271. The Ministry seeks reimbursement in the amounts of JD 30,415 and US$1,582,495 for the preparation costs of the category "E" and "F" claims filed with the Commission on 22 December 1995 by ministries or entities of the Government of Jordan. These costs include the fees of legal advisors and administrative expenses.

272. The Ministry also seeks reimbursement of the amounts of 4,641,956,598 Japanese yen, US$2,665,738, 98,520 Swiss francs and 356,478 Deutsche mark, being the interest paid from 1991 to 1995, inclusive, on loans taken out to cover the budgetary shortfall caused by the revocation of grants from Persian Gulf states and the general deterioration of the Jordanian economy due to the Gulf crisis. The Ministry also attributes the shortfall in the budget to the cost of assisting returnees, the loss of remittances sent by returnees working abroad and the decline in regional trade and tourism during Iraq's invasion and occupation of Kuwait. 68/

273. The Ministry further asserts that "[s]trained relations between Jordan and the Gulf Cooperation Council (GCC) States with the commencement of the Gulf Crisis prompted the freezing of foreign economic assistance to Jordan." It is alleged that between 1979 and 1990, Jordan had received annual aid totalling US$600 million per year from Arab states and that all such aid ceased in August 1990. The Ministry seeks compensation in the amount of US$3,005,000,000 as the value of lost aid from 1990 to 1995. 69/

(b) Analysis and valuation

274. In a letter dated 7 September 1997, the Chairman of the Panel was notified by the Executive Secretary of the Commission that the Governing Council intended to resolve the issue of claims preparation costs at a future date. Pursuant to the letter from the Executive Secretary, the Panel takes no action with respect to the claim of the Ministry of Finance for claim preparation costs.

275. With respect to the claim for reimbursement of interest paid, the Panel finds that the Claimant has failed to demonstrate that the claimed loss was a direct result of Iraq's invasion and occupation of Kuwait. Consequently, the claim is not compensable.

276. With respect to the loss of aid, the Panel finds no evidence of a legally enforceable right to the aid. Rather, the Claimant had a mere expectation that it would continue to receive aid; such an expectation is not compensable.

277. The Panel also finds that the loss of aid is the result of intervening acts or decisions of third parties, namely foreign Governments. These acts or decisions break the chain of causation between the asserted loss and Iraq's invasion and occupation of Kuwait. In accordance with the principles of

compensability discussed in paragraphs 28-38 above, such losses are not compensable.

(c) Recommendation

278. Based on its findings, the Panel takes no action in respect of claims preparation costs and recommends no award of compensation for the reimbursement of interest or for loss of aid claims.

3. Summary of recommendations for the Ministry of Finance

279. Based on the above, the Panel recommends the following amounts of compensation for the Ministry of Finance:

(1)	Payment or relief to others:	nil
(2)	Other:	nil
	Total	nil

L. MINISTRY OF HEALTH (UNCC Claim No. 5000266)

280. The Ministry of Health describes its activities as having overall responsibility for the health of the population. It provides preventative, curative and pharmaceutical services, sets health policy, develops health legislation and oversees the medical profession.

1. Payment or relief to others

(a) Facts and contentions

281. The Ministry of Health asserts that it provided health care to evacuees during the period of Iraq's invasion and occupation, at a cost of US$9,819,000. These costs were incurred in establishing and equipping evacuee camp health facilities, paying salaries of medical personnel, and providing other services such as administration and hospitalization.

282. The Ministry also alleges that it took measures to control the possible outbreak of epidemics in areas where evacuees lacked clean water and sewage disposal and seeks compensation for the cost of such measures in the amount of JD 261,000. 70/

(b) Analysis and valuation

283. The Panel finds that the claimed health care costs and the costs of epidemic control were incurred to provide emergency humanitarian relief to evacuees between the period 2 August 1990 to 2 March 1991 and that they are temporary and extraordinary in nature. In accordance with the principles of compensability discussed in paragraphs 28-38 above, they are compensable.

284. The Panel also finds that while the evidence submitted by the Ministry is sufficient to demonstrate that expenditures were incurred for these purposes, it is insufficient to enable the Panel to quantify the amount expended with precision. As discussed in paragraph 49 above, the Panel has, however, obtained additional information pursuant to article 36 of the Rules that enables it to quantify these expenditures within the category of emergency humanitarian relief defined as "health services, excluding the cost of mobile medical stations".

(c) Recommendation

285. Based on the totality of the evidence, including additional information obtained pursuant to article 36 of the Rules, the Panel recommends an award of compensation in the amount of JD 4,858,416 for evacuee-related health care and epidemic control. This amount represents the Ministry of Health s 10.51 per cent pro-rata share of the global amount determined to have been expended by the Government of Jordan on its emergency humanitarian relief effort.

2. Public service expenditures

(a) Facts and contentions

286. The Ministry of Health seeks compensation in the amount of US$100,744,852 for amounts expended in providing health care to returnees from 1991 to 1995, inclusive. The claim relates primarily to the establishment and operation of 53 new health centres and 210 hospital beds, and is estimated on the premise that 350,000 returnees resettled in Jordan.

(b) Analysis and valuation

287. The Panel notes that the period for which compensation is claimed extends well beyond the compensable period for returnees. In accordance with the principles of compensability set out in paragraphs 28-38 above, that portion of the costs allegedly incurred outside that period is not compensable. With respect to those costs allegedly incurred within the compensable period, the Panel finds that there is insufficient evidence to permit the Panel to verify the claimed costs.

(c) Recommendation

288. Based on its findings, the Panel recommends no award of compensation for public service expenditures.

3. Summary of recommendations for the Ministry of Health

289. Based on the above, the Panel recommends the following amounts of compensation for the Ministry of Health:

(1)	Payment or relief to others:	JD 4,858,416
(2)	Public service expenditures:	nil
	Total	JD 4,858,416

M. MINISTRY OF HIGHER EDUCATION (UNCC Claim No. 5000267)

290. The Ministry of Higher Education describes its activities as providing higher education services to the residents of Jordan at its public community colleges and universities.

1. Real property

(a) Facts and contentions

291. The Ministry seeks to recover the cost of constructing the Hashemite University at Al-Zarka, namely JD 21,400,547, which amount it claims represents "losses in the quality of higher education facilities by the claimant from 1991-1994". The Ministry asserts that "[t]his loss was suffered under the double strain of the increase in student population and lack of finances to meet the increased need for classrooms and facilities absolutely necessary for a modern university education."

292. The Ministry also claims compensation for all of its capital expenditures on construction and maintenance of community college buildings and equipment for the period 1991 to 1995, inclusive, amounting to JD 4,004,392. The Ministry asserts that this amount represents the reduction in its budget resulting from Iraq's invasion and occupation of Kuwait and extra costs it incurred as a result of increased student enrolments resulting from the influx of returnees. 71/

(b) Analysis and valuation

293. The Panel finds that most of the claimed costs were incurred outside the compensable period for returnee-related expenditures. In accordance with the principles of compensability discussed in paragraphs 28-38 above, such losses are not compensable. With respect to those costs allegedly incurred within the compensable period for returnees, there is insufficient evidence to permit the Panel to verify these costs.

(c) Recommendation

294. Based on the above, the Panel recommends no award of compensation for real property loss.

2. Public service expenditures

(a) Facts and contentions

295. The Ministry asserts that it incurred increased costs in having to subsidize the education of returnee students attending Jordanian universities and community colleges for the years 1991 to 1996, inclusive, at a cost of JD 31,080,000. The Ministry seeks recovery of these costs.

296. The Ministry also seeks the amount of JD 145,200, which it asserts was expended to provide scholarships to returnee students for the academic years 1990/1991 to 1996/1997, inclusive. 72/

297. The Ministry further contends that the Government of Jordan faced budgetary problems as a result of Iraq's invasion and occupation of Kuwait and that these financial difficulties forced the Government to reduce grants to universities and community colleges for the period 1991 to 1995, inclusive, by an amount of JD 9,955,000.

(b) Analysis and valuation

298. As set out in paragraphs 28-38 above, the Panel has found that costs expended in respect of temporary and extraordinary relief to returnees during the period 2 August 1990 to 1 September 1991, inclusive, are, in principle, compensable.

299. The evidence indicates that there was a significant increase in the number of university students in the academic year 1990/1991. However, the evidence does not demonstrate any corresponding increase in recurrent expenditures for education during the academic year 1990/1991. With respect to community college students, the evidence indicates that the increase in the number of students between the academic years 1989/1990 and 1990/1991 was not significantly higher than the increase between 1988/1989 and 1989/1990. The Panel, therefore, finds that the Claimant has failed to demonstrate a sufficient basis for its assertion that it incurred increased costs in subsidizing the education of university or college student returnees.

300. With respect to scholarships, the evidence indicates that the number of scholarships awarded did not increase following Iraq's invasion of Kuwait. The Claimant simply increased the proportion of scholarships it awarded to

students normally resident outside Jordan. The Panel accordingly finds that no loss was sustained by the Claimant.

301. The Panel finds that the loss attributed to the decreased grants to universities and community colleges is the result of intervening acts or decisions of the Government of Jordan to decrease those grants. Such acts or decisions break the chain of causation between the asserted loss and Iraq's invasion and occupation of Kuwait. In accordance with the principles of compensability discussed in paragraphs 28-38 above, such loss is not compensable.

(c) Recommendation

302. Based on its findings, the Panel recommends no award of compensation for public service expenditures.

3. Summary of recommendations for the Ministry of Higher Education

303. Based on the above, the Panel recommends the following amounts of compensation for the Ministry of Higher Education:

(1)	Real property:	nil
(2)	Public service expenditures:	nil
	Total	nil

N. MINISTRY OF INTERIOR (UNCC Claim No. 5000268)

304. The Ministry of Interior describes its activities as including "a vast array of responsibilities related to the welfare of the Jordanian population".

1. Payment or relief to others

(a) Facts and contentions

305. The Ministry of Interior claims compensation for numerous expenses allegedly incurred as a result of providing relief to the evacuees. These expenses include:

(i) the provision of food, tents, health care and medicines to evacuees;

(ii) the transportation of evacuees by land and sea (and by air in certain emergency situations, for instance, where evacuees suffered heart attacks);

(iii) the construction of temporary camps;

(iv) the maintenance costs of the airport and seaport facilities used to repatriate evacuees; and

(v) the "upgrading of service and administrative support facilities".

306. The Ministry seeks compensation for the above in the total amount of JD 47,125,647. Further, the Ministry maintains that none of the above costs was paid or reimbursed by foreign Governments or international agencies. 73/

(b) Analysis and valuation

307. The Panel finds that the claimed expenses were incurred to provide emergency humanitarian relief to evacuees between the period 2 August 1990 to 2 March 1991 and that they were temporary and extraordinary in nature. In accordance with the principles of compensability discussed in paragraphs 28-38 above, they are compensable.

308. The Panel further finds that while the documentary evidence submitted by the Ministry is sufficient to demonstrate that expenditures were incurred to provide relief to evacuees, it is insufficient to enable the Panel to quantify the amount expended with precision. As discussed in paragraph 49 above, the Panel has obtained additional information pursuant to article 36 of the Rules

that enables it to quantify these expenditures within all five categories of emergency humanitarian relief as set out in paragraph 51 above.

(c) Recommendation

309. Based on the totality of the evidence, including the additional information obtained pursuant to article 36 of the Rules, the Panel recommends an award of compensation in the amount of JD 32,094,928 for evacuee-related expenditures. This amount represents the Ministry of Interior's 69.40 per cent pro-rata share of the global amount determined to have been expended by the Government of Jordan on the emergency humanitarian relief effort.

2. Summary of recommendation for the Ministry of Interior

310. Based on the above, the Panel recommends the following amount of compensation for the Ministry of Interior:

(1)	Payment or relief to others:	JD 32,094,928
	Total	JD 32,094,928

O. MINISTRY OF LABOR (UNCC Claim No. 5000269)

311. The Ministry of Labor describes its activities as being responsible for regulating the labour sector and providing "labour-related services" in Jordan.

1. Other

(a) Facts and contentions

312. The Ministry of Labor seeks compensation in the amount of JD 450,000 for the costs of assisting Jordanians to file their claims with the Commission and for the operational costs of a national compensation commission established for this purpose. 74/ The Claimant asserts that its Claim does not relate to the costs sought by the Ministry of Finance for the preparation of the category "E" and "F" claims filed by ministries and entities of the Government of Jordan.

(b) Analysis and valuation

313. The Panel notes that paragraph I.1 of Governing Council decision 18 provides that:

> "Governments may offset their costs of processing claims by deducting a small fee from payments made to claimants ... Such fees shall be commensurate with the actual expenditure of Governments. In the case of awards payable to claimants in categories "A", "B" and "C", the fees should not exceed 1.5 per cent, and for awards payable to claimants in categories "D", "E" and "F", the fees should not exceed 3 per cent." 75/

314. The Panel finds that the Governing Council intended these fees to provide adequate recompense for claim processing costs. The Panel finds that the asserted costs of the Ministry of Labor constitute claim processing costs and, as such, are not compensable except by way of the fees provided for in decision 18. 76/

(c) Recommendation

315. Based on its findings, the Panel recommends no award of compensation for the Ministry of Labor.

2 Summary of recommendation for Ministry of Labor

316 Based on the above, the Panel recommends the following amount of compensation for the Ministry of Labor.

(1) Other.	nil
Total	nil

P. MINISTRY OF PLANNING (UNCC Claim No. 5000270)

317. The Ministry of Planning describes its activities as including "a vast array of responsibilities related to the welfare of the Jordanian population, including infrastructure, roads, water, supply, telecommunications, municipal services and other public utility functions".

1. Public service expenditures

(a) Facts and contentions

318. The Ministry of Planning seeks compensation in the amount of JD 1,132,200 for interest revenue losses allegedly sustained by the Central Bank of Jordan in making low interest loans for Government housing projects for returnees.

319. The Ministry also asserts that the influx of returnees necessitated expenditures to create job opportunities during the years 1991 to 1994, inclusive. It estimated that some 59,000 jobs had to be created to employ returnees. The amount claimed is JD 174,288,000. The Ministry maintains that this Claim does not overlap with those submitted by other ministries or entities of the Jordanian Government.

(b) Analysis and valuation

320. The Claim as originally submitted consisted of two components: "housing construction and external infrastructure" (JD 64,190,000) and "job creation" (JD 582,400,000). In its responses to an article 34 notification dated 3 June 1998, the Claimant reduced the amount claimed for the second component to JD 174,288,000. The first component was described as "limited to the increased costs of external infrastructure attendant to the construction of additional housing for returnee families as a result of the Gulf Crisis". Housing construction and external infrastructure costs in the amount of JD 64,190,000 were identified as including, inter alia, roads, pavements, retaining walls, design costs, utility hook-up costs and interest charges on loans secured to fund these costs. In response to the article 34 notification, the Claimant also stated that in fact it had not borne the costs of housing construction and external infrastructure. Accordingly, the Panel does not need to review this claim.

321. In that same article 34 response, the Claimant introduced a claim in the amount of JD 1,132,200 for "compensation for revenue losses incurred through providing low-interest loans to returnees" who purchased the housing units.

322. The Panel finds that the claim for interest revenue losses constitutes a new claim. The introduction of such a new claim is not permitted by way of a response to an article 34 notification for the reasons set out in paragraph 120 above.

323. Even assuming that the new claim were permitted, the Panel notes that the evidence indicates that the majority if not all of the claimed revenue losses were sustained outside the compensable period for returnee-related expenditures.

324. With respect to the second component of the Claim, the Panel finds that expenditures to create employment opportunities for returnees are not temporary or extraordinary in nature. In accordance with the principles of compensability set out in paragraphs 28-38 above, they are not compensable.

(c) Recommendation

325. Based on its findings, the Panel recommends no award of compensation for public service expenditures.

2. Summary of recommendation for Ministry of Planning

326. Based on the above, the Panel recommends the following amount of compensation for the Ministry of Planning:

(1)	Public service expenditures:	nil
	Total	nil

Q. MINISTRY OF PUBLIC WORKS AND HOUSING (UNCC Claim No. 5000271)

327. The Ministry of Public Works and Housing describes its activities as including "a vast array of responsibilities related to roads and highway infrastructure in Jordan".

1. Contract

(a) Facts and contentions

328. A road project in Jordan undertaken by a foreign company was apparently abandoned in August 1990 due to the company's fear for the safety of its construction crew during Iraq's invasion and occupation of Kuwait. The project was left substantially unperformed. An amount of JD 4,914,736, being the difference between the original contract price of the project and the amounts paid to subsequent contractors to complete the foreign company's unperformed work, is claimed as compensation. However, this amount appears to be an arithmetical error since the component items total JD 4,909,736.

(b) Analysis and valuation

329. The Panel has already noted, in paragraph 25 above, that the land territory of Jordan was not the subject of military operations or the threat of military action. Accordingly, losses arising from the abandonment of the road project because of safety concerns are not compensable. Furthermore, the evidence before the Panel does not indicate that the project was located in an area in which there could have been a potential spillover effect from military operations in Israel or Iraq.

(c) Recommendation

330. Based on its findings, the Panel recommends no award of compensation for contract losses.

2. Public service expenditures

(a) Facts and contentions

331. The Ministry is seeking compensation in the amount of JD 62,865,076 for the maintenance and repair costs of roads for the period 1991 to 1996, inclusive. The Ministry contends that certain roads in Jordan suffered considerable damage from the movement of over a million evacuees and returnees.

(b) Analysis and valuation

332. The Panel finds that, in principle, damage to roads resulting from their use by evacuees and returnees during the compensable time periods set out in the principles of compensability discussed in paragraphs 28-38 above, are compensable. However, the evidence does not demonstrate that damage was caused as a result of the movement of evacuees and returnees. Rather, the evidence indicates that the roads were in poor condition prior to Iraq's invasion and occupation of Kuwait.

(c) Recommendation

333. Based on its findings, the Panel recommends no award of compensation for public service expenditures.

3. Summary of recommendations for the Ministry of Public Works and Housing

334. Based on the above, the Panel recommends the following amounts of compensation for the Ministry of Public Works and Housing:

(1)	Contract:	nil
(2)	Public service expenditures:	nil
	Total	nil

R. GREATER AMMAN MUNICIPALITY (UNCC Claim No. 5000272)

335. The Greater Amman Municipality describes its activities as including "a vast array of responsibilities related to municipal services in Amman".

1. Public service expenditures

(a) Facts and contentions

336. The Greater Amman Municipality contends that as a consequence of the permanent settlement of a large proportion of returnees in Amman, the population of Amman increased by 123,650 people in 1990 whereas prior thereto the average annual increase was approximately 40,000 people. The Municipality asserts that more municipal services were required, at an increased cost to the Municipality. These included the costs of traffic planning, construction of pavements and road repair. The Municipality seeks compensation in the amount of JD 56,619,557, being the difference between the amount of expenditures in the periods 1986 to 1990 inclusive and 1991 to 1995 inclusive. 77/

(b) Analysis and valuation

337. The Panel finds that in accordance with the principles of compensability discussed in paragraphs 28-38 above, the portion of the claimed costs that were incurred within the compensable period for returnees and that provided humanitarian relief to returnees within that same period are, in principle, compensable. However, there is insufficient evidence to verify that any such costs were incurred within the compensable period.

(c) Recommendation

338. Based on its findings, the Panel recommends no award of compensation for public service expenditures.

2. Summary of recommendation for the Greater Amman Municipality

339. Based on the above, the Panel recommends the following amount of compensation for the Greater Amman Municipality:

(1)	Public service expenditures:	nil
	Total	nil

S. WATER AUTHORITY (UNCC Claim No. 5000274)

340. The Water Authority is an autonomous public department which describes its activities as encompassing "a vast array of responsibilities related to water and sewerage and related activities in Jordan".

1. Public service expenditures

(a) Facts and contentions

341. The Authority maintains that the influx of returnees necessitated rehabilitation and expansion of its water supply and sewerage networks at a cost of JD 152,001,870. The period for which that amount is claimed is not identified. However, the amount includes a number of projects that commenced between 1990 and 1995. Some of these projects were completed in 1997.

342. The Authority also seeks the amount of JD 16,038,000, which it contends represents additional operating expenses incurred during the period 1990 to 1994, inclusive, as a result of the influx of returnees.

343. The Authority further asserts that the additional demand for water created by the influx of returnees compelled it to consider exploiting Jordan's last known water reserve, the Al-Disi Aquifer, ten years earlier than projected. Compensation is sought in the amount of JD 700,000 for a feasibility study undertaken on the supply of additional water from this reserve.

(b) Analysis and valuation

344. The Panel finds that the evidence indicates that expenditures for rehabilitation and expansion of the Authority's water supply and sewerage networks were incurred outside the compensable period for returnees. Consequently, in accordance with the principles of compensability discussed in paragraphs 28-38 above, these expenditures are not compensable.

345. Increased operating costs attributable to the influx of returnees are temporary and extraordinary in nature for the duration of the compensable period for returnee-related expenditures. In accordance with the principles of compensability set out in paragraphs 28-38 above, such expenditures are, in principle, compensable.

346. The evidence indicates that operating costs increased between 1990 and 1991. The Claimant acknowledges that no fees for service were collected from the returnees. The Panel finds that the decision of the Claimant not to charge returnees for water and sewerage services constitutes a form of humanitarian relief that is temporary and extraordinary in nature during the compensable period in respect of returnees. However, the evidence is insufficient to permit the Panel to value the claimed loss.

347. The evidence indicates that the study concerning the water reserve commenced in August 1995, outside the compensable period in respect of returnee-related expenditures. In accordance with the principles of compensability discussed in paragraphs 28-38 above, the cost of the study is not compensable.

(c) Recommendation

348. Based on its findings, the Panel recommends no award of compensation for public service expenditures.

2. Other

(a) Facts and contentions

349. The Water Authority also asserts that the influx of returnees resulted in increased demand on the water and sewerage systems thereby increasing the rate of depreciation of those systems. The Authority contends that as a consequence it sustained a resultant loss in the amount of JD 50,623,085 during the period 1990 to 1994, inclusive, for which compensation is sought. 78/

(b) Analysis and evaluation

350. The Panel notes that a large portion of the claim for increased depreciation falls outside of the compensable period and, as such, is not compensable in accordance with the principles of compensability discussed in paragraphs 28-38 above. With respect to any portion of the claim that may fall within the compensable period, the Panel finds that the Claimant has not produced sufficient and appropriate evidence that the increased depreciation is attributable to the returnees. Consequently, the Panel concludes that this portion of the claim is also not compensable.

(c) Recommendation

351. Based on its findings, the Panel recommends no award of compensation for the loss attributed to the increased rate of depreciation.

3. Summary of recommendations for the Water Authority

352. Based on the above, the Panel recommends the following amounts of compensation for the Jordanian Water Authority:

(1)	Public service expenditures:	nil
(2)	Other:	nil
	Total	nil

T. NATURAL RESOURCES AUTHORITY (UNCC Claim No. 5000275)

353. The Natural Resources Authority, an entity of the Ministry of Energy and Mineral Resources, describes its activities as principally concerned with "the exploration in Jordan for oil, natural gas, and mineral resources".

1. Contract

(a) Facts and contentions

354. The Authority claims compensation in the amount of JD 85,000 for the increase in the cost of equipment and materials that it attributes to price increases following Iraq's invasion of Kuwait.

355. The Authority also asserts that four of its projects were suspended for various periods, apparently for reasons of safety resulting from Iraq's invasion and occupation of Kuwait, but that it continued to pay the salaries of workers on those projects. Compensation is sought in the amount of JD 91,398 for the salaries. The projects related to renovation and maintenance, exploration, geological engineering and laboratory analysis. 79/

(b) Analysis and valuation

356. With respect to the claim for increased costs of equipment and materials, the Panel finds that the Claimant has failed to demonstrate that those costs were a direct result of Iraq's invasion and occupation of Kuwait. Consequently, the claim is not compensable.

357. With respect to the project suspension, the Panel notes that as discussed in paragraph 25 above, the land territory of Jordan was not the subject of military operations or the threat of military action. The Panel finds that the evidence does not indicate that the suspension of the projects was a precautionary measure taken in response to potential spillover effects from military operations in Israel or Iraq. Consequently, the claim for salaries is not compensable.

(c) Recommendation

358. Based on its findings, the Panel recommends no award of compensation for contract losses.

2. Income-producing property

(a) Facts and contentions

359. The Authority asserts that it feared that as a result of the hostilities precipitated by Iraq's invasion of Kuwait, its Hamza oil field and Risha natural gas field would suffer direct missile attacks from military operations. The Hamza field is located approximately 150 kilometres from Jordan's border with Iraq and the Risha field is located approximately one kilometre from the Iraqi border. The Authority suspended production at the Hamza and Risha fields from 15 January to 3 February 1991 and 18 January to 1 March 1991, respectively. The Authority seeks compensation in the amount of JD 645,337 for the loss of revenues from 250 barrels of oil per day and 18 million cubic feet of gasoline per day, which it asserts would have been produced, respectively, by the Hamza and Risha fields during the period of suspension.

360. The Authority also moved rigs and equipment away from both fields and claims compensation for the cost of their removal and return in the amount of JD 260,000.

361. Additionally, the Authority claims compensation in the amount of JD 130,266 for salaries and allowances paid to 418 employees whose work at the two fields was suspended during Iraq's invasion and occupation of Kuwait.

(b) Analysis and valuation

362. The Panel finds that the location of the Hamza field is too remote from the Iraqi border to raise a reasonable possibility that it would have suffered any spillover effects from military operations in Iraq precipitated by the invasion. Consequently, the losses claimed for the Hamza field are not compensable.

363. However, the location of the Risha field, approximately one kilometre from the Iraqi border, raised a reasonable possibility of effects of military operations in nearby Iraq spilling over into the area of the Risha field. Accordingly, the loss of revenues from the Risha field, the costs of moving its rigs and equipment away from the Iraqi border and the claimed salaries paid to Risha workers are, in principle, compensable for the duration of the claimed period, namely, 18 January to 1 March 1991.

364. The Claimant was asked to provide details of daily production at the Risha field before and after shutdown. The Claimant failed to provide this information. In the absence of such data, the Panel is unable to verify a loss as a result of suspended operations.

365. With respect to the cost of moving the rigs and equipment at the Risha field, the evidence supports an award in the amount of JD 102,419.

366. The Panel finds that because production was suspended as a result of the spillover effect from military operations in nearby Iraq, the inability of the Risha workers to perform productive work was a direct result of Iraq's invasion and occupation of Kuwait. These salary payments are therefore compensable during the period of suspension. The Panel further finds that the Risha workers were specialized employees who could not, on short notice, be reassigned to other productive work. The evidence supports an award for salaries in the amount of JD 104,365.

(c) Recommendation

367. Based on its findings, the Panel recommends an award of compensation in the amount of JD 206,784 for income-producing property losses.

3. Summary of recommendations for the Natural Resources Authority

368. Based on the above, the Panel recommends the following amounts of compensation for the Natural Resources Authority:

(1)	Contract:	nil
(2)	Income-producing property:	JD 206,784
	Total	JD 206,784

PART III

A. SUMMARY OF RECOMMENDATIONS

369. The recommendations of the Panel are summarized as follows:

Table 2. Summary of recommended amounts in first instalment of "F2" claims

Ministry or Entity	Amount recommended (JD)	Amount recommended (converted to US$)
Ministry of Social Development	180,350	267,979
Ministry of Supply	1,246,684	1,879,965
Public Security Directorate	4,725,134	7,137,665
Armed Forces	3,397,593	5,137,825
Ministry of Tourism and Antiquities	116,113	172,274
Civil Aviation Authority	325,416	491,565
Civil Defence General Directorate	652,204	985,202
Electricity Authority	nil	nil
Ministry of Education	nil	nil
Ministry of Energy and Mineral Resources	nil	nil
Ministry of Finance	nil	nil
Ministry of Health	4,858,416	7,338,997
Ministry of Higher Education	nil	nil
Ministry of Interior	32,094,928	48,481,764
Ministry of Labor	nil	nil
Ministry of Planning	nil	nil
Ministry of Public Works and Housing	nil	nil
Greater Amman Municipality	nil	nil
Water Authority	nil	nil
Natural Resources Authority	206,784	312,363
Total	47,803,622	72,205,599

Geneva, 23 September 1999

(Signed) Mr. Francisco Orrego Vicuña
Chairman

(Signed) Mr. Jen Shek Voon
Commissioner

(Signed) Mr. Hans van Houtte
Commissioner

Notes

1/ Mr. Jen Shek Voon was appointed at the Governing Council's twenty-second session held on 14-16 October 1996 and Messrs. Francisco Orrego Vicuña (Chairman) and Hans van Houtte were appointed at its twenty-eighth session held on 29 June to 1 July 1998.

2/ Governing Council decision 10 (S/AC.26/1992/10) approved the Rules.

3/ Where permissible supplements or amendments have been made to a Claim, the Panel has based its review on the amended total. However, the Claimants are not permitted to increase amounts claimed by way of responses to article 34 notifications. Such increases are not included in the total amounts listed. See para. 120 of this report.

4/ Vol. XLV, No. 4, April 1991 (ST/ESA/STAT/SER.1/220). In contrast, the date of the exchange rate applied to calculate the recommended amounts is described in paras. 55-60 of this report.

5/ In support of this figure the Claimants cite Nicholas Van Hear, "Mass Flight in the Middle East: involuntary migration and the Gulf conflict, 1990-1991", in Geography and Refugees: patterns and processes of change, (1993) ("Van Hear"), p. 67.

6/ (S/AC.26/1994/2).

7/ Ibid., pp. 21-22.

8/ This is the figure most often used by the Claimants. In support they cite United Nations, Economic and Social Commission for Western Asia (ESCWA), Survey of Economic and Social Developments in the ESCWA Region, 1990-1991, August 1992 (E/ESCWA/DPD/1992/8), ("ESCWA Survey") p. 3. The Claimants allege that the majority were Palestinians who held Jordanian passports, and entered Jordan between August and December 1990, although they have not quantified the number.

9/ See United Nations Demographic Yearbook, 1996, 48th Edition, (ST/ESA/STAT/SER.R/27), p. 156; Jordan Population and Family Health Survey 1990, Jordanian Department of Statistics and Jordanian Ministry of Health (1992), p. 1, citing Population Projections for Jordan: 1990-2005, Jordanian National Population Commission (1991); and Nazem Abdalla, "Impact of the Gulf Crisis on developing countries" (1991), p. 14, informal background paper

prepared for the United Nations Development Programme's Persian Gulf Task Force.

10/ This accords with other information before the Panel. According to one estimate, 90 per cent of these persons had been away for more than 10 years, 43 per cent for more than 20 years, and nearly a quarter had migrated before the early 1960s. See Van Hear, p. 76.

11/ P. 28. See also "Report and Recommendations made by the Panel of Commissioners concerning the First Instalment of Individual Claims for Damages up to US$100,000 (Category "C" Claims)" (S/AC.26/1994/3), ("First 'C' Report"), pp. 59-65.

12/ Governing Council decision 7, "Criteria for Additional Categories of Claims" (S/AC.26/1991/7/Rev.1), ("decision 7").

13/ "Report of the Secretary-General pursuant to para. 19 of Security Council resolution 687 (1991)" (S/22559), para. 20.

14/ Iraq has accepted this liability. See Security Council resolution 686 (1991), which notes that the Foreign Minister of Iraq confirmed, in letters to the Security Council after the suspension of offensive combat operations, Iraq's agreement to comply fully with several resolutions, including Security Council resolution 674 (1990). Para. 8 of resolution 674 (1990) provides that under international law [Iraq] is liable for any loss, damage or injury arising in regard to Kuwait and third States, and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait by Iraq.

15/ See "Report and Recommendations made by the Panel of Commissioners concerning Part One of the First Instalment of Claims by Governments and International Organizations (Category 'F' Claims)" (S/AC.26/1997/6) First 'F1' Report"), paras. 47-50; "Report and Recommendations made by the Panel of Commissioners concerning the First Instalment of 'E2' Claims" (S/AC.26/1998/7)("First 'E2' Report"), para. 44; and "Report and Recommendations made by the Panel of Commissioners concerning the First Instalment of 'E3' Claims" (S/AC.26/1998/13)("First 'E3' Report"), para. 23.

16/ Governing Council decision 15, "Compensation for Business Losses Resulting from Iraq's Unlawful Invasion and Occupation of Kuwait where the Trade Embargo and Related Measures Were also a Cause" (S/AC.26/1992/15), ("decision 15") para. 6. See also decision 7, paras. 31 and 36.

17/ Ibid., para. 3.

18/ "Report and Recommendations made by the Panel of Commissioners concerning the Second Instalment of 'E2' Claims" (S/AC.26/1999/6) ("Second 'E2' Report"), para. 54.

19/ The "E2" First Report, para. 155. See also the First "F1" Report, para. 4.

20/ Pp. 13-14.

21/ See also the Second "E2" Report, para. 103.

22/ Security Council resolution 686 (1991).

23/ See also the Second "E2" Report, para. 68 ("two cumulative criteria must be met to find a threat of military action by Iraq outside Iraq or Kuwait for the purpose of establishing the Commission's jurisdiction over a claim based on that threat. One is that a specific threat by Iraq must have been directed at that location; the other, that the target of the threat, if any, must have been within the range of Iraq's military reach."). See also the First "F1" Report, paras. 94-96.

24/ See paras. 257 and 363 of this report.

25/ See Governing Council decision 9, para. 6, "Propositions and Conclusions on Compensation for Business Losses: Types of Damages and Their Valuation" (S/AC.26/1992/9) ("decision 9"), which states, in relevant part, that "[t]he trade embargo and related measures, and the economic situation caused thereby, will not be accepted as the basis for compensation" (footnote omitted).

26/ The "F1" Panel has often utilized the "temporary and extraordinary" requirement in its determinations. For example, in the "F1" First Report at para. 85 it held that "payments by Governments for temporary and extraordinary living expenses that result from individuals' departure from Kuwait or Iraq or their inability to return to those countries during the period of 2 August 1990 to 2 March 1991 are directly related to Iraq's invasion and occupation of Kuwait". In contrast, it held that "discretionary payments for ongoing ordinary living expenses that are incurred after a person has left the region and taken up a new residence should not normally be considered to be direct consequences of the invasion and occupation of Kuwait". In the same report, the "F1" Panel further determined that "payments involv[ing] the provision of temporary and extraordinary living expenses to persons cut off from their means of support in Kuwait and unable to return [were] as a direct result of Iraq's invasion and occupation of that country", at para. 86. See also the "E3" First Report, para. 177.

27/ See also the discussion at paras. 29-31 of this report concerning emergency humanitarian relief to evacuees and Governing Council decision 7.

28/ See, for example, para. 88 of this report.

29/ See also the "E2" Second Report, paras. 70-72.

30/ "United Nations Compensation Commission Claim Forms for Governments and International Organizations, Instructions for Claimants" ("category 'F' claim form"), para. 4. On 16 October 1992, the Commission's Executive Secretary circulated a letter to the Permanent Representatives of United Nations Member States in which he reiterated the pleading and evidentiary standard set forth in the Rules and on the category "F" claim form (S/AC.26/1992/None No. 55).

31/ See category "F" claim form.

32/ See para. 5 of this report.

33/ See, for example, the First "C" Report, pp. 31-32; the First "E2" Report, para. 279; "Report and recommendations made by the Panel of Commissioners concerning the first instalment of E4 claims" (S/AC.26/1999/4), para. 227; and the First "F1" Report, para. 100.

34/ United Nations Monthly Bulletin of Statistics, Vol. XLV, No. 4, April 1991, (ST/ESA/STAT/SER.1/220).

35/ Governing Council decision 16, "Awards of Interest", (S/AC.26/1992/16), para. 1.

36/ Ibid., at paras. 2-3.

37/ See category "F" claim form, Part "F", Summary of Losses Claimed.

38/ The Claimant classified this claim as "Public Service Expenditures".

39/ The Claimant classified this claim as "Public Service Expenditures".

40/ The Claimant classified this claim as "Public Service Expenditures".

41/ See para. 26 of this report.

42/ The Claimant classified this claim as "Public Service Expenditures".

43/ The value of that temporary and extraordinary benefit has been calculated by ascertaining the difference between the purchase cost of the generators and their value at the end of the compensable period. The

calculation of the value of the generators at the end of this period takes into account their average life and the likely residual value at the end of their average life.

44/ The Claimant classified the claims in this paragraph as "Public Service Expenditures".

45/ The Claim Form submitted by the Public Security Directorate claims an amount of JD 4,500,500 whereas the schedules in support of this amount total JD 4,500,000. The Panel proceeded using the latter figure.

46/ The Claimant classified this claim as "Evacuation Costs". In response to an article 34 notification dated 3 June 1998, the Claimant withdrew that part of the Claim wherein the amount of JD 18,750 for storage of equipment in the desert had been sought.

47/ This estimate appears in the Public Security Directorate's Statement of Claim. However, elsewhere in that same document, it has asserted that the number of returnees amounted to 300,000.

48/ The Claimant classified the claims in this paragraph as "Public Service Expenditures".

49/ The Claimant classified the claims under this heading as a "Business Transaction or Course of Dealing".

50/ Provisional Summary Record of the eighty-first Meeting (Closed), (S/AC.26/SR.81), para. 33. This determination was based on Governing Council decision 19, "Military costs" (S/AC.26/Dec.19(1994)), in which the costs of the Allied Coalition Forces, including costs of military operations against Iraq, were held not to be compensable.

51/ The Claimant classified this claim as a "Business Transaction or Course of Dealing".

52/ Record of eighty-first Meeting, op. cit.

53/ "Eligibility for Compensation of Members of the Allied Coalition Armed Forces" (S/AC.26/1992/11).

54/ The Claimant classified the claim in this paragraph as "Evacuation Costs".

55/ The value prior to the damage was calculated on a depreciated replacement cost basis, i.e., the cost of replacing an asset, the value of which is reduced by depreciation charges that reflect the expired useful life

of the asset. The salvage value was based on the second-hand cost of the parts that could be salvaged.

56/ The amount originally claimed was US$6 million. However, the Claimant reduced this amount by US$3,563,243 by way of a response to an article 34 notification dated 3 June 1998.

57/ The Claimant classified the claims under this heading as a "Business Transaction or Course of Dealing".

58/ The Claimant classified this claim as a "Business Transaction or Course of Dealing".

59/ The Claimant classified the claims under this heading as a "Business Transaction or Course of Dealing".

60/ The Claimant classified this claim as "Contract".

61/ The Claimant classified the claims in this paragraph as "Public Service Expenditures".

62/ The Claimant classified the claims under this heading as a "Business Transaction or Course of Dealing".

63/ The Claimant classified this claim as "Public Service Expenditures".

64/ The Claimant classified this claim as "Public Service Expenditures".

65/ The total amount claimed for the items listed in this paragraph is US$50,000 less than the sum of the items.

66/ The Claimant classified the claim in this paragraph as a "Business Transaction or Course of Dealing".

67/ The Claimant classified the claims under this heading as a "Business Transaction or Course of Dealing".

68/ The Claimant classified the claims in this paragraph as "Income-producing Property".

69/ The Claimant classified the claims in this paragraph as a "Business Transaction or Course of Dealing".

70/ The amount originally claimed was JD 336,000. However, the Claimant reduced this amount by JD 75,000 by way of a response to an article 34

notification dated 3 June 1998. The Claimant classified the claims under this heading as "Public Service Expenditures".

71/ The Claimant classified the claims under this heading as "Public Service Expenditures".

72/ The Jordanian academic year commences in September and ends the following June.

73/ The Claimant classified the claims under this heading as "Evacuation Costs".

74/ The Claimant classified this claim as "Public Service Expenditures".

75/ Governing Council decision 18, "Distribution of Payments and Transparency" (S/AC.26/Dec.18(1994).

76/ See also "Report and Recommendations made by the Panel of Commissioners concerning the Second Instalment of 'F1' Claims" (S/AC.26/1998/12), ("Third 'F1' Report"), paras. 116-118 and "Report and Recommendations made by the Panel of Commissioners concerning the Third Instalment of 'F1' Claims" (S/AC.26/1999/7), ("Fourth 'F1' Report") paras. 133-135.

77/ This is the amount claimed in the original Statement of Claim. In the Supplementary Statement of Claim the Municipality sought JD 68,359,074 but during the Commission's December 1998 technical mission to Jordan, the Municipality's representative stated that the original Statement of Claim reflected what was being claimed, and the Commission has received a letter from the Lord Mayor of Amman to this effect.

78/ The Claimant classified this claim as "Income-producing Property".

79/ The Claimant classified the claims under this heading as a "Business Transaction or Course of Dealing".